THE CAYMAN ISLANDS LAW REFORM COMMISSION

DISCUSSION PAPER

CANNABIS REFORM: OPTIONS FOR A HARM MINIMISATION FRAMEWORK

1 JULY, 2026

THE CAYMAN ISLANDS LAW REFORM COMMISSION

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CAYMAN ISLANDS LAW REFORM COMMISSION

Public Submissions

Stakeholders and members of the general public are invited to comment on the issues identified in this Discussion Paper and, in particular, to submit their views on the recommendations presented for discussion.

The Paper may be viewed on the following website: **www.lrc.gov.ky, https://publicconsultation.gov.ky/** or **www.gov.ky** or a copy may be collected from the Offices of the Law Reform Commission.

Submissions should be forwarded no later than **1 September, 2026** to the Director of the Law Reform Commission, 5th Floor Government Administration Building, Portfolio of Legal Affairs, 133 Elgin Avenue, George Town, Grand Cayman, P.O. Box 136, Grand Cayman KY1-9000 either electronically to **cilawreform@gov.ky**, or in writing, by post or hand delivered.

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1 INTRODUCTION

1.1 On 30 April, 2025, the Cayman Islands held its general election alongside a non-binding referendum that asked, among other questions —

> ***Do you support the decriminalisation of the consumption and possession of small amounts of cannabis?***

55.64% of voters responded "yes".

1.2 Recognising the complex legal and policy issues involved in cannabis reform, on 27 June, 2025, the Cabinet asked the Law Reform Commission ("the Commission") to examine and make recommendations in relation to the following matters —

(a) proposed possession thresholds and legal definitions;

(b) levels of administrative penalties;

(c) alignment with existing drug enforcement as well as regional and international obligations;

(d) potential social impacts; and

(e) safeguarding vulnerable populations.

1.3 This Paper will assess the case for reform, examine reform models adopted in other jurisdictions, and examine evidence of the impacts of decriminalisation and legalisation on cannabis use and the illegal market for cannabis. It further presents reform options for public consultation.

2 SCOPE AND KEY TERMS

2.1 Scope of this paper

2.1.1 In accordance with Cabinet's referral, the Commission is investigating the possession and consumption of cannabis for recreational purposes. The medical and therapeutic use of

cannabis is already permitted in the Cayman Islands.[1] Only recreational cannabis use and possession will be examined in this paper.

2.1.2 A key criticism of decriminalisation is that it does not allow the state to introduce a regulatory system, including licensing arrangements, to control the supply of cannabis and combat the illegal drug market. While the referendum question was limited to decriminalisation, this paper will also examine the potential benefits and disadvantages of broader reform to regulate supply. This will enable an assessment of whether there is merit in reform beyond decriminalisation, including an assessment of the available evidence on the regulatory and health implications of legalising supply.

2.2 Key terms

2.2.1 Decriminalisation is a term used to describe the removal of criminal penalties for conduct that was previously classified as a criminal offence. Decriminalised conduct may be free of any penalty or may be subject to an administrative penalty only. An administrative penalty is a fine imposed by an administrative notice, such as an infringement notice or ticket. If the fine is paid, there is no prosecution or conviction for the conduct. As such, administrative penalties provide a mechanism for enforcing laws without bringing those who infringe such laws into the criminal justice sphere.

2.2.2 Although conduct that carries no penalty at all is technically legal, in this paper "decriminalisation" will be used to describe two types of cannabis reforms —

1. Reforms that have replaced criminal penalties for possession of small amounts, consumption and, in some cases, personal cultivation with administrative penalties.

[1] *Misuse of Drugs Act* (2026 Revision), s 2A.

2. Reforms that have removed all penalties for possession of small amounts, consumption and, in some cases, personal cultivation but that have not legalised production or supply of cannabis.

2.2.3 By contrast, in this paper "legalisation" refers to legalising production and supply of cannabis in addition to possession and consumption. Legalisation brings the full range of activities related to cannabis under the regulatory control of the government, similar to the regulation of alcohol and tobacco.[2]

2.2.4 In this paper, the term "cannabis" has the same meaning as in the *Misuse of Drugs Act (2026 Revision)* (the "MDA"), that is —

> "***cannabis***" *(except in the expression "cannabis resin") means any plant of the genus Cannabis or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely —*
>
> *(a) mature stalk of any such plant;*
>
> *(b) fibre produced from mature stalk of any such plant.*"[3]

While the term "ganja" is widely used in the Cayman Islands, its definition in the MDA includes both cannabis and cannabis resin. This paper distinguishes between cannabis and cannabis resin so does not use that term.

3 THE HISTORICAL FOUNDATIONS AND MODERN CONTEXT OF CANNABIS PROHIBITION

3.1 Cannabis has deep historical, cultural and religious roots across the Caribbean. It was grown and used freely long before it was prohibited. The prohibition of cannabis as a dangerous drug without value is a relatively recent development, which occurred without

[2] Bromby and Awai, "Joint Liability: A Brief History of the Criminalization of Cannabis, Ganja, Marihuana and Marijuana in the Cayman Islands and Pathways towards Legalization or Decriminalisation" (2024) *Statute Law Review* 45(3), 2.
[3] Schedule 1, Part 4.

the benefit of scientific evidence about the harm or beneficial properties of cannabis.[4] The increasing criminalisation of cannabis in early 20th-century Jamaica (which extended to the Cayman Islands) has been associated with the emergence of Rastafarianism, whose adherents were often stereotyped as criminals and cultists.[5]

3.2 Despite its widespread prohibition, cannabis is the most commonly used illicit drug in the world. In 2023, 244 million people, or 4.6% of the global population aged between 15 and 64, used cannabis, far exceeding opioid (61 million, or 1.2%), amphetamine (31 million, or 0.6%) and cocaine (25 million, or 0.5%) use combined.[6]

3.3 In 2018, the CARICOM Regional Commission on Marijuana (the "CARICOM Commission") reported a "groundswell of support and enthusiasm" for cannabis reform from its extensive consultation process.[7] Support for prohibition in Barbados dropped from 73% in 2008 to 37% in 2016. A survey conducted in the Dominican Republic in 2017 found 57% support for law reform away from prohibition. Public support for the decriminalisation of cannabis in Jamaica increased following its 2015 cannabis reforms, with 70% of persons between the ages of 12 and 65 years approving of legal possession of cannabis for personal use. This indicates that some of the fears of negative impacts of decriminalisation were assuaged following implementation of the reforms.[8]

3.4 A range of justifications for cannabis reform have been advanced —

(a) profiling of cannabis users results in racial, ethnic, income and socioeconomic disparities in enforcement;

(b) prohibition is ineffective in deterrence and criminalises minor offending;

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[4] Caribbean Community Secretariat, *Waiting to Exhale – Safeguarding our Future through Responsible Socio-Legal Policy on Marijuana* (2018), 65, https://caricom.org/documents/report-of-the-caricom-regional-commission-on-marijuana-2018-waiting-to-exhale-safeguarding-our-future-through-responsible-socio-legal-policy-on-marijuana/.
[5] CARICOM, n. 4, 18.
[6] United Nations Office on Drugs and Crime, *World Drug Report 2025: Key Findings*, 47, https://www.unodc.org/documents/data-and-analysis/WDR_2025/WDR25_B1_Key_findings.pdf.
[7] CARICOM, n. 4, 2.
[8] CARICOM, n. 4, 2.

(c) prohibition violates the religious freedom of people practising the Rastafarian faith;

(d) cannabis is not as harmful as traditionally portrayed and has beneficial properties, so should not be classified as a 'dangerous drug';

(e) legalisation of cannabis cultivation and sale provides economic opportunities and the potential for associated tax revenue;

(f) prohibition violates human rights without reasonable justification; and

(g) problematic cannabis use and dependency requires a public health approach based on care and rehabilitation rather than punitive measures.[9]

3.5 Conversely, a number of counter-arguments against decriminalising cannabis have been made, such as —

(a) decriminalisation may lead to increased usage, including by young people;

(b) cannabis is a dangerous substance that is more harmful than alcohol and has no societal value;

(c) cannabis use and possession is associated with criminality;

(d) cannabis is associated with psychosis and anti-social behaviours; and

(e) cannabis is a gateway to more dangerous 'hard' drugs like cocaine.[10]

4 CANNABIS IN THE CAYMAN ISLANDS

4.1 International obligations

4.1.1 The United Nations Single Convention on Narcotic Drugs of 1961 (the "1961 Convention") and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and

[9] CARICOM, n. 4, 13.
[10] CARICOM, n. 4, 14.

Psychotropic Substances of 1988 (the "1988 Convention") (the "UN Conventions") have both been extended to the Cayman Islands.

1961 Convention

4.1.2 Until recently, cannabis and cannabis resin were listed in Schedule IV to the 1961 Convention. Schedule IV drugs are considered to be particularly liable to abuse and to cause adverse effects, while having little or no therapeutic use. They are accordingly subject to the most stringent control measures under the Convention. Article 2(5) specifies —

> "*The drugs in Schedule IV shall also be included in Schedule I and subject to all measures of control applicable to drugs in the latter Schedule, and in addition thereto:*
>
> *(a) A Party shall adopt any special measures of control which in its opinion are necessary having regard to the particularly dangerous properties of a drug so included; and*
>
> *(b) A Party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only, including clinical trials therewith to be conducted under or subject to the direct supervision and control of the Party*."

4.1.3 However, on 22 January, 2021, cannabis and cannabis resin were removed from Schedule IV in accordance with recommendations of the World Health Organization (the "WHO"), which found —

> "*The evidence presented to the Committee did not indicate that cannabis and cannabis resin were particularly liable to produce ill-effects similar to the effects of the other substances in Schedule IV of the 1961 Single Convention on Narcotic*

Drugs. In addition, preparations of cannabis have shown therapeutic potential for treatment of pain and other medical conditions such as epilepsy and spasticity associated with multiple sclerosis, which are not always controlled by other medications."[11]

As such, cannabis and cannabis resin are now listed only in Schedule I, along with extracts and tinctures of cannabis. Schedule I drugs are subject to the fewest restrictions under the Convention.

4.1.4 Article 4(c) of the 1961 Convention requires Parties "*to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs*". However, other provisions are less precise. Article 33 provides that Parties "*shall not permit the possession of drugs except under legal authority*". Article 22(1) specifies —

> "*Whenever the prevailing conditions in the country or a territory of a Party render the prohibition of the cultivation of…the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation*."

This leaves significant leeway for Parties to determine whether prohibition of cultivation is warranted. Similarly, article 28(3) requires Parties to "*adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant*." Again, the wording is not prescriptive and allows Parties to determine the measures to be taken. It is also not clear what constitutes misuse.

[11] World Health Organization, *WHO Expert Committee on Drug Dependence: Forty-first Report* (WHO Technical Report Series No. 1018, 2019), 41, https://www.who.int/publications/i/item/9789241210270.

4.1.5 Article 36 contains the key requirement for penal sanctions for a range of activities, including possession and cultivation. However, even this provision allows for alternatives to conviction and punishment for drug users —

"*1. (a) Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.*

(b) Notwithstanding the preceding subparagraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration..."

1988 Convention

4.1.6 The 1988 Convention re-iterates some of the key provisions of the 1961 Convention, but the purpose of the Convention is expressly stated to relate to illicit traffic in drugs with an international dimension.[12] The 1988 Convention is more precise in relation to the possession of drugs. Article 3(1) provides —

"*Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:*

[12] Article 2(1).

(a)(i) The production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;

(ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;

(iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;".

4.1.7 Laws permitting possession for personal consumption do not seem to be contrary to this requirement, as subparagraph (iii) prohibits possession for the purpose of the activities listed in subparagraph (i), that is, activities related to supply. However, article 3(2) goes on to state —

"*Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention*."

4.1.8 Similar to the 1961 Convention, article 3(4) of the 1988 Convention allows Parties to provide alternative pathways to conviction and punishment —

"*4. (a) Each Party shall make the commission of the offences established in accordance with paragraph 1 of this article liable to sanctions which take into account the grave nature of these offences, such as imprisonment or other forms of deprivation of liberty, pecuniary sanctions and confiscation.*

(b) The Parties may provide, in addition to conviction or punishment, for an offence established in accordance with paragraph 1 of this article, that the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.

(c) Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare.

(d) The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender."

4.1.9 Notably, article 14(2) requires human rights and traditional uses of narcotic plants to be considered when regulating cultivation —

"*Each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory. The measures adopted shall respect fundamental human rights and shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.*"

4.2 Domestic law

4.2.1 The MDA defines "cannabis" and related terms in Schedule 1, Part 4 as follows —

""***cannabis***" *(except in the expression "cannabis resin") means any plant of the genus Cannabis or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely —*

(a) mature stalk of any such plant;

(b) fibre produced from mature stalk of any such plant.

*"**cannabinol derivatives**" means the following substances except where contained in cannabis or cannabis resin namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;*

*"**cannabis extracts and tinctures of cannabis**" means the separated resin, crude or purified, obtained from the cannabis plant*;

*"**ganja**" means cannabis and cannabis resin.*"

4.2.2 Cannabis, cannabis resin, ganja, cannabinol, cannabinol derivatives, cannabis extracts and tinctures of cannabis are all designated as controlled drugs under the MDA.[13] Cannabinol (except where contained in cannabis or cannabis resin), cannabinol derivatives, cannabis extracts and tinctures of cannabis are classified as hard drugs under the MDA, a subset of controlled drugs subject to higher penalties.[14]

4.2.3 Section 2A of the MDA authorises the use of cannabis extracts and tinctures for medical or therapeutic purposes under a prescription issued by a medical doctor. However, any other consumption or possession of cannabis, cannabis resin, ganja, cannabinol, cannabinol derivatives, cannabis extracts and tinctures of cannabis is an offence under section 3 of the Act, along with importing, exporting, producing, storing, selling, buying, supplying, distributing, dispensing or administering those substances. The possession of any pipe, utensil or thing used in the preparation or consumption of a controlled drug is also an offence under section 3.

4.2.4 The penalty for consumption of cannabis or cannabis resin is a fine of three thousand dollars and imprisonment with hard labour for three years, and, in the case of a third or subsequent conviction, a fine of ten thousand dollars and imprisonment with hard labour

[13] Section 2(1), definition of "controlled drug", read with Schedule 1.
[14] Section 2(1), definition of "hard drug", read with Schedule 1, Part 1.

for ten years.[15] The penalty for possession of less than one pound of cannabis or cannabis resin is a fine of twenty thousand dollars and imprisonment with hard labour for seven years and, in the case of a second or subsequent conviction, a fine of twenty thousand dollars and imprisonment with hard labour for ten years.[16] Higher penalties apply for possession of larger amounts, or for consumption or possession of cannabinol (except where contained in cannabis or cannabis resin), cannabinol derivatives, cannabis extracts and tinctures of cannabis.[17]

4.3 Enforcement of cannabis laws

4.3.1 The Royal Cayman Islands Police Service (the "RCIPS") reported 150 drug crimes in 2023. 5% of total recorded crime was confirmed or suspected as drug related, while 6% of total recorded crime was confirmed or suspected as alcohol related. 16% of all crimes of violence involved or potentially involved alcohol, while 2% of crimes of violence against the person involved or potentially involved drugs.[18]

4.3.2 Possession of ganja was by far the most common drug offence in 2023, constituting nearly half of all drug offences.[19]

Crime Category	2023	2023 % of TRC	2022	Yearly Variance	Yearly % Variance
Consumption - Cocaine	3	2.0%	3	0	0%
Consumption - Ganja	16	10.7%	19	-3	-16%
Consumption - Other	3	2.0%	2	1	50%
Importation - Ganja	2	1.3%	3	-1	N/A

[15] Section 16(1).
[16] Section 16(2).
[17] Section 16(3), (4) and (5).
[18] Royal Cayman Islands Police Service, *Annual Crime and Traffic Statistics Report 2023*, 4, 13, https://www.rcips.ky/upimages/ckeditor/1713981456_RCIPS2023CrimeandTrafficStatisticsReport.pdf.
[19] Royal Cayman Islands Police Service (2023), n. 18, 26.

Import/Export Drugs	0	0.0%	1	-1	-100%
Possession - Cocaine	13	8.7%	5	8	160%
Possession - Ganja	73	48.7%	83	-10	-12%
Possession - Other	9	6.0%	8	1	13%
Possession Utensils - Cocaine	13	8.7%	7	6	86%
Possession Utensils - Ganja	1	0.7%	2	-1	-50%
Supply - Cocaine	1	0.7%	4	-3	-75%
Supply - Ganja	15	10.0%	18	-3	-17%
Failure to Provide/Driving	1	0.7%	0	1	N/A
Drug Crime Total	150	3.8%	155	-5	-3%

4.3.3 Drug offences increased in 2024, mainly due to an increase in offences of possession of ganja by 36.[20] While these statistics indicate a high level of enforcement related to the relatively minor offence of possession, the RCIPS notes that drug charges tend to result from investigations related to supply or importation of drugs or due to police interactions with persons for non-drug-related reasons.[21] In other words, the RCIPS is not necessarily focusing enforcement efforts on possession or consumption of cannabis, but such charges may result from investigations relating to more serious crimes or from unrelated interactions.

[20] Royal Cayman Islands Police Service, *Annual Crime and Traffic Statistics Report 2024*, https://www.rcips.ky/upimages/ckeditor/1747254643_RCIPS2024CrimeTrafficStatisticsReportFINAL.pdf.
[21] Royal Cayman Islands Police Service (2023), n. 18, 15.

4.4 Cannabis use among young people

4.4.1 The National Drug Council Cayman Islands conducts a biennial drug use survey across students aged 11 to 18 years in the Cayman Islands. The results indicate that alcohol use is significantly more prevalent among students than cannabis use.

4.4.2 The 2022 Cayman Islands Student Drug Use Survey reported that the average age of first use of marijuana among students in the Cayman Islands is 13 years.[22] In contrast, the average age of first use of alcohol is 11 years. Alcohol also has the highest prevalence for early onset of use, with 27.8% of students having first consumed alcohol at the age of 13 years or younger.[23]

4.4.3 Alcohol is the most prevalent substance used by students, followed by e-cigarettes. 40.5% of students reported having consumed alcohol during their lifetime, compared with 29.3% having used an e-cigarette and 14.1% having used marijuana.[24] In terms of recent use, 13.1% of students reported using alcohol during the 30 days preceding the survey, compared with 10.9% having used an e-cigarette and 5.3% having used marijuana.[25]

4.4.4 Students also reported a lower perception of disapproval of alcohol use in comparison with marijuana use. 51.7% perceived that their peers would disapprove or strongly disapprove of marijuana use in comparison to 47% for alcohol use.[26]

5 DECRIMINALISATION AND LEGALISATION IN OTHER JURISDICTIONS

5.1 Jamaica

5.1.1 In 2015, Jamaica decriminalised the possession of up to 57 grams (two ounces) of cannabis (including cannabis resin) by providing for a fixed penalty of $500, no arrest or

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[22] National Drug Council Cayman Islands, *Cayman Islands Student Drug Use Survey Report 2022*, 31, https://ndc.ky/download/cayman-islands-student-drug-use-survey-cisdus-report-2022/
[23] National Drug Council Cayman Islands, n. 22, 20.
[24] National Drug Council Cayman Islands, n. 22, 21.
[25] National Drug Council Cayman Islands, n. 22, 21.
[26] National Drug Council Cayman Islands, n. 22, 24.

detention and no conviction if the penalty is paid.[27] In addition, possession in excess of 57 grams is not an offence if the possession is for religious purposes as a sacrament in adherence to the Rastafarian faith.[28] If the person in possession is under 18 years of age or appears to be dependent on cannabis, they must be referred to the National Council for Drug Abuse or another prescribed body.[29]

5.1.2 Using premises for storing cannabis or a conveyance for transporting cannabis is not an offence if the quantity does not exceed 57 grams. In addition, it is not an offence to cultivate, gather or store five or less cannabis plants.[30]

5.1.3 Smoking of cannabis is prohibited within five metres of the entrance, exit, window or ventilation intake of a public place, workplace or public conveyance.[31]

5.2 Antigua and Barbuda

5.2.1 In 2018, Antigua and Barbuda decriminalised possession of up to 15 grams of cannabis or cannabis resin and the cultivation of not more than four cannabis plants per household.[32] Smoking cannabis in a public place is an offence.[33]

5.2.2 In addition, the *Cannabis Act, 2018* established a regulatory regime for the religious use of cannabis. A person who is an adherent of a religious body, including the Rastafarian faith, may register with the Medicinal Cannabis Authority to —

(a) cultivate more than four plants for use solely for religious purposes as a sacrament; and

[27] *Dangerous Drugs Act* (Cap. 90) (Jamaica), ss 7F and 7G.
[28] *Dangerous Drugs Act* (Cap. 90) (Jamaica), s 7C.
[29] *Dangerous Drugs Act* (Cap. 90) (Jamaica), s 7G.
[30] *Dangerous Drugs Act* (Cap. 90) (Jamaica), s 7B.
[31] *Dangerous Drugs Act* (Cap. 90) (Jamaica), First Schedule.
[32] *Misuse of Drugs Act* (Cap. 283) (Antigua and Barbuda), ss 6A and 8.
[33] *Misuse of Drugs Act* (Cap. 283) (Antigua and Barbuda), s 6B.

(b) possess more than 15 grams of cannabis for use solely for religious purposes as a sacrament. [34]

5.2.3 Sacramental dispensaries may be authorised by the Minister, with a limit on dispensing 15 grams to an individual at a time. Religious bodies may be authorised to cultivate cannabis.[35]

5.3 Bermuda

5.3.1 Cannabis reform (albeit to a minimal extent) has occurred in another British Overseas Territory, Bermuda. The *Misuse of Drugs Act 1972* was amended in 2017 to decriminalise possession of up to seven grams of cannabis. However, the Director of Public Prosecutions retains discretion to prosecute if the evidence indicates an intention to supply the drug.[36] In addition, a police officer may seize any amount of cannabis in possession of a person.[37] Notably, it remains illegal for a person to consume cannabis.[38] Cultivation and supply of cannabis also remain illegal.[39]

5.3.2 Bermuda attempted more extensive reform in 2020. The proposed legislation sought to establish a legal and regulatory framework for a domestic cannabis industry and would have legalised cannabis for both recreational and medicinal use. It also proposed the creation of a dedicated cannabis regulatory authority and the amendment of the *Misuse of Drugs Act 1972* to de-classify cannabis as a controlled drug.[40] In May 2022, the Governor of Bermuda announced that the Bill would be reserved for consideration by the Foreign, Commonwealth and Development Office (the "FCDO"). In September 2022, the Governor confirmed that the FCDO had instructed her not to assent to the Bill, on the basis that the legalisation of cannabis would be incompatible with the obligations of both

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[34] *Cannabis Act, 2018* (Antigua and Barbuda), s 3.
[35] *Cannabis Act, 2018* (Antigua and Barbuda), ss 5 and 6.
[36] s 6 and Sch 8.
[37] s 25A.
[38] ss 8 and 1(2).
[39] ss 5 and 11.
[40] *Cannabis Licensing Bill 2020* (Bermuda).

the United Kingdom and Bermuda under the UN Conventions. The statement noted the distinction between legalisation and decriminalisation —

> "*The Conventions permit legalisation of cannabis and cannabis products for medicinal and scientific purposes, and for certain industrial purposes, as long as appropriate regulatory oversight is put in place.*
>
> *The legalisation of cannabis for other purposes is not permitted under the Conventions. It is possible to decriminalise the possession of limited amounts of cannabis for personal use, but that is not the same as making cannabis legal, for example, for sale in shops and cafes.*"[41]

5.4 British Virgin Islands

5.4.1 Another British Overseas Territory, the British Virgin Islands, attempted cannabis reform in 2020. The *Cannabis Licensing Bill, 2020* proposed a framework for the licensed cultivation, processing, importation, exportation and sale of cannabis for medical purposes. Separately, the *Drugs (Prevention of Misuse) (Amendment) Bill, 2020* provided for the expungement of some historic minor cannabis offences involving the possession of up to 50 grams of cannabis or 10 grams of cannabis resin. Notably, while the *Cannabis Licensing Bill, 2020* purported to regulate medicinal cannabis, it proposed a dispensing regime that would permit up to one gram of cannabis to be lawfully dispensed with only proof of age. Between one and 50 grams could be lawfully dispensed on completion of a self-declaration (that is, without the requirement for a medical prescription).[42] As such, the proposed legislation would, in effect, have facilitated the sale and purchase of recreational cannabis.

5.4.2 The Governor of the British Virgin Islands is not empowered to refuse assent to Bills, but is required to reserve a Bill for the signification of His Majesty's pleasure if it appears to

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[41] Statement by H.E. Governor Rena Lalgie on Cannabis Licensing Bill (2022), https://www.gov.uk/government/news/governor-of-bermuda-update-on-cannabis-licensing-bill.
[42] s 25.

be inconsistent with international obligations or the Constitution.[43] Having not yet assented to the Bills, the Governor issued a statement in December 2020.[44] In relation to the *Cannabis Licensing Bill, 2020*, the Governor explained the steps required to progress towards assent —

> "*This bill presents potential economic opportunities for the Territory and I applaud the efforts to diversify our economy. I am supportive of BVI investing in new and innovative industries and creating jobs and growth for the people. Therefore, the focus over the past months has been to establish what steps need to be taken for assent to be granted so that any new medical marijuana industry is successful.*
>
> *…*
>
> *At present, the Home Office acts as the licensing authority for narcotics in BVI, including medical narcotics. The Cannabis Licensing Act would change that, establishing in law a new authority in BVI that would take over this responsibility from the Home Office. For this to happen, BVI and the Home Office need to work together to take preliminary steps to transfer the authority and enter into a Memorandum of Understanding…That way, there can be certainty for all involved that BVI's new industry will not breach the 1961 Convention or any international law now or in the future.*"

5.4.3 In relation to the *Drugs (Prevention of Misuse) (Amendment) Bill, 2020*, the path forward was less clear —

> *"Similarly, this bill has been given careful consideration to ensure it is fully compliant with international regulations, in consultation with the UK Home Office and with a close eye on evolving international law.*

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[43] *Virgin Islands Constitution Order 2007*, s 79.

[44] Statement by H.E. Governor Augustus Jaspert on Cannabis Licensing Act and Drugs (Prevention of Misuse) Amendment Act (2020), https://www.bvi.gov.vg/media-centre/statement-his-excellency-governor-augustus-jaspert-cannabis-licensing-act-and-drugs.

These considerations have been complicated by the increasing number of illegal drugs seizures that have taken place here in recent months – particularly the record-breaking seizure of more than 2,300 kilos of cocaine in early November. Criminal investigations are ongoing, but these instances show that a significant scale of illegal drug trafficking is taking place here. Ministers in the UK are concerned by this and by BVI's vulnerability to regional organised crime, especially given that the UK holds overall responsibility for BVI's security and international relationships.

The UK Foreign Secretary wants to give further consideration to this bill to explore the possible effects of decriminalising the possession of a recreational drug - and thereby potentially increasing its trade – at this time. He has therefore instructed me to pass the bill to him for assent, so that he may consider alongside wider factors including the security of the region, the UK's work in the region and the recent United Nations' decisions. I expect that once BVI's licensing authority is fully operational in regulating the medicinal marijuana industry, some of these concerns relating to recreational drugs may be mitigated."

5.4.4 Progress on the Bills was interrupted by a period of significant political turmoil in the British Virgin Islands, including the establishment of a Commission of Inquiry into allegations of corruption and the arrest of Premier Andrew Fahie in the United States on drug trafficking and money laundering charges.[45] They have not yet received assent.

5.5 Belize

5.5.1 Possession of not more than ten grams of cannabis was decriminalised in Belize in 2017. If the possession occurs on the premises of an educational institution, no offence is committed but the contravention results in a warning for the first contravention and a

[45] O'Brien, *Written evidence to the Public Administration and Constitutional Affairs Committee (The Status of the UK's Overseas Territories in the 21st Century Inquiry)* (2023), https://committees.parliament.uk/writtenevidence/124054/pdf/.

ticket with a $100 fine for a subsequent contravention. If the person in possession is under the age of 18 years, they are required to participate in a drug treatment or counselling programme.[46]

5.5.2 Cultivation of cannabis remains an offence.[47] Smoking of cannabis is not an offence if the amount of cannabis in the person's possession is not more than ten grams and the smoking occurs at the person's residence or someone else's private premises, with their consent.[48]

5.6 Dominica

5.6.1 In 2020, Dominica decriminalised possession of up to 28 grams of cannabis or cannabis resin by adults.[49] It is legal for an adult to cultivate up to three plants at their residence.[50] It is illegal to smoke cannabis in a public place.[51]

5.7 Trinidad and Tobago

5.7.1 In 2019, Trinidad and Tobago decriminalised possession of up to 30 grams of cannabis or five grams of cannabis resin, along with cultivation of up to four cannabis plants.[52] In addition, the offences of possession of over 30 grams but not more than 60 grams of cannabis and over five grams but not more than ten grams of cannabis resin are dealt with by fixed penalty notice. If the penalty is paid, the offender is not liable to conviction for the offence.[53]

5.7.2 The Minister is empowered, subject to regulations, to issue licences for the cultivation of cannabis.[54] Smoking in a public place is an offence, but the Minister may prescribe a list

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[46] *Misuse of Drugs Act* (Cap. 103) (Belize), s 7.
[47] *Misuse of Drugs Act* (Cap. 103) (Belize), s 8.
[48] *Misuse of Drugs Act* (Cap. 103) (Belize), s 12.
[49] *Drugs (Prevention of Misuse) Act* (Chap. 40:07) (Dominica), s 7A.
[50] *Drugs (Prevention of Misuse) Act* (Chap. 40:07) (Dominica), s 8.
[51] *Drugs (Prevention of Misuse) Act* (Chap. 40:07) (Dominica), s 7B.
[52] *Dangerous Drugs Act* (Chap. 11:25) (Trinidad and Tobago), s 5.
[53] *Dangerous Drugs Act* (Chap. 11:25) (Trinidad and Tobago), s 5B.
[54] *Dangerous Drugs Act* (Chap. 11:25) (Trinidad and Tobago), s 4.

of approved public places where smoking is permitted and the offence of smoking in a public place is dealt with by fixed penalty notice.[55] Possession of cannabis in a place where children are present for the purpose of education or a sporting or cultural activity is an offence.[56]

5.8 Saint Kitts and Nevis

5.8.1 In 2019, Saint Kitts and Nevis decriminalised the possession of up to 15 grams of cannabis, a threshold that was increased to 56 grams in 2020. A person found in possession of cannabis up to the threshold is allowed to retain possession of the cannabis, but is liable to pay a fixed penalty of $50.[57]

5.8.2 In addition, there are avenues for registered or licensed cannabis possession and cultivation. Under the *Rastafari Rights Recognition Act, 2023*, cannabis may be grown and possessed at a registered place of assembly by adult members of a registered Rastafari group. Under the *Freedom of Conscience (Cannabis) Act, 2023*, an adult may be licensed to possess up to 56 grams of cannabis and to cultivate up to five cannabis plants on the person's private premises.

5.9 Saint Lucia

5.9.1 In 2021, Saint Lucia decriminalised the possession of up to 30 grams of cannabis or cannabis resin.[58] Cultivation of up to four cannabis plants at a dwelling is permitted.[59]

5.10 Canada

5.10.1 Since 2018, adults who are 18 years of age or older are legally able to possess up to 30 grams of legal cannabis (that is, cannabis that was legally sold, produced and distributed)

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[55] *Dangerous Drugs Act* (Chap. 11:25) (Trinidad and Tobago), s 5A and 5B.
[56] *Dangerous Drugs Act* (Chap. 11:25) (Trinidad and Tobago), s 5C.
[57] *Drugs (Prevention and Abatement of the Misuse and Abuse of Drugs) Act* (Cap. 9.08) (Saint Kitts and Nevis), s 7.
[58] *Drugs (Prevention of Misuse) Act* (Saint Lucia), s 8A.
[59] *Drugs (Prevention of Misuse) (Cannabis Cultivation) Regulations* (Statutory Instrument 208/2021) (Saint Lucia), cl 4.

in Canada.[60] Legally produced cannabis, edible cannabis products, cannabis extracts, cannabis topicals and cannabis plant seeds may be sold to adults by provincially-licensed retailers, and in provinces and territories without a regulated retail framework, individuals are able to purchase cannabis online from federally-licensed producers.[61] An adult may cultivate up to four cannabis plants at their residence.[62]

5.10.2 Promotion of cannabis is prohibited except in narrow circumstances, as are products, packaging and labelling that are appealing to young people.[63] The federal government is responsible for setting requirements for cannabis production, including regulating the types of cannabis products permitted, serving sizes and potency, ingredients, production practices, packaging and labelling. In addition, the federal government regulates tracking requirements of cannabis from seed to sale. Provinces and territories are responsible for regulating the distribution and sale of cannabis. They are also able to increase the minimum age for possession of cannabis in their jurisdiction (but not lower it), lower the personal possession limit in their jurisdiction, lower the number of plants that may be cultivated per residence and restrict where adults can consume cannabis. [64]

5.11 Australian Capital Territory

5.11.1 In 1992, the Australian Capital Territory (the "ACT") introduced a civil penalty of $100 for possession of small amounts of cannabis, instead of a criminal conviction. The possession threshold was initially 25 grams, later increased to 50 grams. Cultivation of up to five cannabis plants was also decriminalised (later reduced to two plants per adult or four plants per household). The scheme applied to people of all ages.[65]

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[60] *Cannabis Act* (S.C. 2018, c. 16) (Canada), s 8.
[61] *Cannabis Act* (S.C. 2018, c. 16) (Canada), ss 33 and 69, Sch 4.
[62] *Cannabis Act* (S.C. 2018, c. 16) (Canada), s 12.
[63] *Cannabis Act (*S.C. 2018, c. 16) (Canada), ss 17, 26, 27 and 31.
[64] Government of Canada, "Cannabis Legalization and Regulation", https://www.justice.gc.ca/eng/cj-jp/cannabis/.
[65] Australian Capital Territory Government, *Review of the operation of the Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (2024), 7, https://www.act.gov.au/__data/assets/pdf_file/0004/2570890/Review-of-the-operation-of-the-Drugs-of-Dependence-Personal-Cannabis-Use-Amendment-Act-2019.pdf.

5.11.2 In 2020, all penalties for possession of up to 50 grams of dried cannabis were removed for individuals over the age of 18 years. It is an offence for a person under 18 years of age to possess any amount, but if the amount is not more than 50 grams, the penalty is only one penalty unit (currently $160).[66]

5.11.3 A person over the age of 18 years may cultivate up to two cannabis plants (excluding plants cultivated hydroponically or with an artificial light or heat source). It is an offence for a person under the age of 18 years to do so, but the penalty is one penalty unit (there is a higher penalty for cultivating a higher number of plants). It is an offence to cultivate a cannabis plant at a place other than where the cultivator lives.[67]

5.11.4 It is an offence to store harvested cannabis within reach of children and it is an offence to smoke cannabis in a public place or near a child.[68]

5.12 The United States of America

5.12.1 Cannabis remains illegal under federal law in the United States of America (the "US"). However, 48 states, the District of Columbia, Puerto Rico, Guam and the US Virgin Islands have enacted laws allowing for the medical use of cannabis. In addition, 24 states, the District of Columbia, Guam and the Northern Mariana Islands have enacted laws allowing for recreational use of cannabis by adults, including the sale of cannabis by licensed retailers operating on a commercial basis. The federal government has largely allowed the states and territories to implement these laws despite the federal prohibition of both medical and recreational use of cannabis. In fact, since 2015, Congress has included provisions in annual appropriation Acts prohibiting the federal Department of Justice from using appropriated funds to prevent the states and territories from implementing these laws.[69]

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[66] *Drugs of Dependence Act 1989* (Australian Capital Territory), s 171AA.
[67] *Drugs of Dependence Act 1989* (Australian Capital Territory), ss 162, 171AAA, 171AAB.
[68] *Drugs of Dependence Act 1989* (Australian Capital Territory), ss 171AAC, 171AB.
[69] Sacco, Lampe and Sheikh, "The Federal Status of Marijuana and the Policy Gap with States" (Congressional Research Service, 2026), https://www.congress.gov/crs_external_products/IF/PDF/IF12270/IF12270.9.pdf.

5.12.2 On 23 April, 2026, the US Department of Justice reclassified marijuana products approved by the Food and Drug Administration or regulated by a state medical marijuana licence from Schedule I to Schedule III under the *Controlled Substances Act* (21 USC § 801 et seq.).[70] This followed an executive order issued by President Donald Trump in December, 2025.[71] Previously, cannabis was designated as a Schedule I substance, a category reserved for drugs deemed to have no currently accepted medical use and a high potential for abuse. Schedule III substances have an accepted medical use and a lower potential for abuse relative to Schedule I or II substances. While this reclassification relates to medical use of cannabis, it represents a long-awaited shift in federal regulation. Whether this shift extends in the future to federal legalisation of recreational cannabis remains to be seen.

5.13 Uruguay

5.13.1 Uruguay was an early adopter of cannabis reform. In 1974, possession of small amounts of cannabis for personal use was decriminalised, with judges afforded discretion to determine the applicable possession threshold.[72] Recreational cannabis was legalised in 2013, with an indicative possession threshold of 40 grams.[73] The legislation specified three main objectives of the reform —

1. Reducing drug trafficking-related violence.

2. Promoting public health through education and prevention campaigns.

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[70] US Department of Justice, "Press Release: Justice Department Places FDA-Approved Marijuana Products and Products Containing Marijuana Subject to a Qualifying State-issues License in Schedule III, Strengthening Medical Research While Maintaining Strict Federal Controls" (23 April, 2026), https://www.justice.gov/opa/pr/justice-department-places-fda-approved-marijuana-products-and-products-containing-marijuana.

[71] Trump, *Executive Order 14370—Increasing Medical Marijuana and Cannabidiol Research* (18 December, 2025), https://www.govinfo.gov/content/pkg/DCPD-202501206/pdf/DCPD-202501206.pdf.

[72] Hudak, Ramsey and Walsh, *Uruguay's Cannabis Law: Pioneering a New Paradigm* (Brookings Institution, 2018), 2.

[73] Decree-Law No. 14.294, article 31, as amended by Law Nº 19.172, article 7.

3. Abolishing the inconsistency between permitting possession but criminalising supply.[74]

5.13.2 The Institute for the Regulation and Control of Cannabis (the "IRCCA") is the regulatory body responsible for overseeing implementation of the law. There are three ways to access cannabis —

1. Adults are permitted to cultivate up to six cannabis plants per household for personal consumption, provided that such plants are registered with the IRCCA. Cultivation of additional male or non-flowering plants is permitted. Total annual production of cannabis must not exceed 480 grams.

2. Adults may join cannabis clubs, which are cooperatives that grow cannabis collectively. Clubs must be registered with the IRCCA. Clubs can plant up to 99 plants in the same space, but cannot dispense more than 480 grams of cannabis to each member per year. Any surplus cannabis must be forfeited to the state.

3. Adults may purchase up to 40 grams of cannabis per month from authorised pharmacies. This cannabis is grown by state-licensed commercial growers.[75]

5.13.3 Advertising or any form of promotion of cannabis is prohibited.[76] Smoking cannabis is prohibited in indoor public spaces where smoking tobacco is prohibited.[77]

[74] Law Nº 19.172, article 1.
[75] Decree-Law No. 14.294, article 3, as amended by Law Nº 19.172, article 5.
[76] Law Nº 19.172, article 11.
[77] Law Nº 19.172, article 13.

5.14 Germany

5.14.1 Germany legalised the possession and cultivation of cannabis for recreational purposes in 2024. Adults may possess up to 25 grams of cannabis outside of the home or 50 grams of cannabis inside the home, and cultivate three plants at home.[78] Aside from home cultivation, supply is authorised by cannabis clubs, similar to the model adopted in Uruguay. Cannabis clubs are required to operate on a non-profit basis and must not charge for products. Instead of selling cannabis, cannabis clubs distribute cannabis to members and are funded by membership fees. The tetrahydrocannabinol ("THC") concentration in cannabis grown privately or collectively is not regulated, but the production of THC extracts is prohibited.[79]

5.15 The Netherlands

5.15.1 Although the Netherlands is widely considered to be an early adopter of progressive cannabis policies, its decriminalisation is *de facto* rather than *de jure*. It is against the law to possess, sell or produce cannabis. However, a practice of tolerance has been in place since the 1970s. The Dutch Public Prosecution Service does not prosecute possession of up to five grams of cannabis for personal use or cultivation of up to five cannabis plants for personal use.[80]

5.15.2 In addition, the sale of no more than five grams of cannabis per day to adults in licensed 'coffee shops' is tolerated. Since 2013, only residents of the Netherlands are permitted to purchase cannabis in coffee shops.[81]

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[78] Manthey, Rehm and Verthein, "Germany's cannabis act: a catalyst for European drug policy reform?" (2024) *The Lancet Regional Health* 42, 2.
[79] Manthey, Rehm and Verthein, n. 78, 2.
[80] Bakowski, "Recreational use of cannabis: Laws and policies in selected EU Member States" (European Parliamentary Research Service, 2024), https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)762307, 11-12.
[81] Bakowski, n. 80, 12.

5.16 Malta

5.16.1 In 2021, Malta became the first European Union member to legalise recreational use and cultivation of cannabis. Adults are permitted to cultivate up to four cannabis plants at home and possess up to seven grams of cannabis for personal use. In addition, licensed non-profit cannabis associations may cultivate cannabis plants and sell cannabis to their adult members.[82]

5.16.2 Using cannabis in a public place is an offence, with a higher penalty if the use occurs in front of anyone under the age of 18. While possession of more than seven grams of cannabis is prohibited, possession of over seven grams but not more than 28 grams is subject to a fine of €100.

5.17 Possession and cultivation limit overview

Jurisdiction	Possession limit	Cultivation limit (plants)
Jamaica	57 grams cannabis or cannabis resin	5
Antigua and Barbuda	15 grams cannabis or cannabis resin	4
Bermuda	7 grams cannabis	-
Belize	10 grams cannabis or cannabis resin	-
Dominica	28 grams cannabis or cannabis resin	3
Trinidad and Tobago	30 grams cannabis 5 grams cannabis resin	4
Saint Kitts and Nevis	56 grams cannabis 15 grams cannabis resin	5 (under licence)

[82] Bakowski, n. 80, 11.

Saint Lucia	30 grams cannabis or cannabis resin	4
Canada	30 grams dried cannabis 150 grams wet* cannabis	4
Australian Capital Territory	50 grams dried cannabis 150 grams wet cannabis	2 per person 4 per household
Uruguay	40 grams	6 (registered)
Germany	25 grams outside the home 50 grams inside the home	3
The Netherlands	5 grams (tolerated)	5
Malta	7 grams cannabis 2.3 grams cannabis resin	4

* "Wet" cannabis is freshly harvested cannabis.

6 THE CASE FOR REFORM

6.1 Evaluating harm

6.1.1 It is beyond the scope of this Discussion Paper to evaluate all the health impacts of cannabis use. A more pertinent evaluation is whether those risks are effectively managed and minimised by the current regime of prohibition. If a harm mitigation approach to cannabis regulation is taken, it follows that prohibition is justifiable if two conditions are met —

1. Prohibition reduces cannabis consumption.

2. Prohibition does not in itself cause more harm than good.

6.1.2 In relation to the first condition, there is a broad consensus that the prohibition of cannabis has been generally ineffective in deterring its use. Cannabis remains the most commonly used illicit drug in the world, and many jurisdictions have adopted *de facto*

decriminalisation by not actively enforcing laws prohibiting possession and consumption.[83]

6.1.3 However, it would be reckless to assume that decriminalisation will have no impact on the use of cannabis at all. Although prohibition is generally ineffective in deterrence, the legal risk involved is likely to deter some people from using cannabis. In addition, prohibition influences perceptions, regardless of the actual harm caused by the prohibited substance. It is reasonable to assume that the negative perceptions generated by prohibition, including perceptions of harm and the stigmatisation of users, suppress demand for cannabis to some extent.

6.1.4 It should be noted (as will be discussed further below) that any increase in consumption following cannabis reform is likely to be much more significant if cannabis supply is legalised. First, this would reduce supply-side barriers to access (including the reluctance of many law-abiding users to interact with drug dealers). The extent to which those supply-side barriers are reduced depends on the supply model adopted. Second, legalisation is likely to have a greater influence on perceptions and social norms surrounding cannabis over the long-term than decriminalisation, increasing demand.[84]

6.1.5 Even if prohibition deters or suppresses cannabis use to some extent, it is important to evaluate any benefits of prohibition against its negative impacts – the second condition. The negative impacts of prohibition include health impacts, socioeconomic impacts and criminal justice impacts.

6.1.6 In terms of health impacts, the CARICOM Commission noted that the initial prohibition of cannabis occurred without the benefit of scientific research and data as to the effects of cannabis consumption, either positive or negative.[85] The Commission acknowledged the

[83] CARICOM, n. 4, 3.
[84] Smart and Pacula, "Early evidence of the impact of cannabis legalization on cannabis use, cannabis use disorder, and the use of other substances: Findings from state policy evaluations" (2019) *American Journal of Drug and Alcohol Abuse* 45(6), 3.
[85] CARICOM, n. 4, 3.

psychoactive properties of cannabis and the potential for negative health impacts, including mental health impacts. However, the Commission concluded that these negative impacts are most prevalent in high risk persons and scenarios and that cannabis is no more harmful than legal substances such as alcohol. However, the Commission noted the conclusive evidence of the negative impact of cannabis on adolescents, in terms of its effect on memory, learning and attention and the risk of early onset of psychosis.[86]

6.1.7 Aside from its inefficacy in preventing harm by deterring use, prohibition has the potential to exacerbate the negative health impacts of cannabis use. There is no regulation of the quality and potency of cannabis, and users have no way of knowing precisely what they are consuming.[87] Users are also less likely to seek help for cannabis dependency if they fear prosecution. In addition, prohibition results in the allocation of resources to enforcement that could otherwise be directed to public health initiatives such as treatment programmes and interventions to prevent the uptake of cannabis by young people. The CARICOM Commission concluded that the health risks associated with cannabis would be better controlled under a non-prohibitionist, health-based regime, such as the approach taken in relation to alcohol and tobacco.[88]

6.1.8 Prohibition also has negative socioeconomic impacts, such as its disproportionate criminal justice impact. Minor cannabis offences are more likely to be enforced against individuals with low socioeconomic status, even though cannabis use is prevalent across all demographics.[89] Such convictions exacerbate inequality by reducing employment prospects, disrupting family units and generally hindering socioeconomic mobility.

6.1.9 While the consumption and possession of small amounts of cannabis are not considered major offences, prohibition itself creates conditions that facilitate serious and harmful criminal activity, with significant adverse effects on the community. The illegal cannabis

[86] CARICOM, n. 4, 3.
[87] CARICOM, n. 4, 4.
[88] CARICOM, n. 4, 3.
[89] CARICOM, n. 4, 3.

trade funds organised crime and the illegal firearms trade, contributing to gang violence, often involving firearms.[90] Enforcement, prosecution and punishment of minor cannabis offences impact the resources of police, prosecutors, courts and the corrections system. However, these resource impacts are dwarfed by the resource requirements of an effective response to the illegal drug trade.

6.1.10 In evaluating harm, it is important to note that decriminalisation does not equate to an endorsement of cannabis as a harmless drug. Rather, decriminalisation allows an evidence-based approach to regulating cannabis use that is based on public health and social justice.[91] The fact that cannabis can be harmful is not, in itself, a justification for prohibition. As noted by Room *et al* —

> "*In modern societies, a finding of adverse effects does not settle the issue of the legal status of a commodity; if it did, alcohol, automobiles and stairways, for instance, would all be prohibited, since use of each of these results in substantial casualties*."[92]

6.1.11 The CARICOM Commission was careful to emphasise the same point —

> "*the Commission does not predicate law reform initiatives on a value judgement that cannabis/marijuana is a substance without any adverse effects whatsoever. Like many other substances, it should be acknowledged that cannabis/marijuana may have adverse effects, particularly if abused. A pragmatic and proactive move toward law reform should not, therefore, be translated to mean a 'glamourising' of the substance. Care should be taken to put regulatory controls in place to prevent abuses and the most adverse consequences. This may also involve mechanisms to encourage responsible use, which may mean, in general, to dampen enthusiasm for its recreational use. Moving away from prohibition does*

[90] CARICOM, n. 4, 4.
[91] CARICOM, n. 4, 8.
[92] Room et al, *Cannabis Policy: Moving Beyond Stalemate* (Oxford University Press, 2010), 15.

not necessarily mean a laissez-faire approach to cannabis/marijuana or carte blanche encouragement for usage."[93]

6.2 Human rights concerns

6.2.1 A number of recent cases have highlighted potential human rights infringements arising from the prohibition of the consumption and possession of cannabis. In the 2018 case of *Minister of Justice and Constitutional Development and Others v Prince*,[94] the Constitutional Court of South Africa confirmed a decision of the High Court of South Africa that legislation prohibiting the use or possession of cannabis infringed the constitutional right to privacy to the extent that it prohibited the use, possession or cultivation of cannabis by an adult in private for that adult's personal consumption in private. Notably, the Constitutional Court found that the right to privacy extends beyond the boundaries of a home or private dwelling, allowing for use, possession or cultivation in private but outside the home.

6.2.2 In the 2019 case of *Ras Sankofa Maccabbee v The Commissioner of Police and the Attorney General of Saint Christopher and Nevis*,[95] the High Court of Saint Christopher and Nevis found that legislation prohibiting possession and cultivation of cannabis was inconsistent with the constitutionally guaranteed right to freedom of conscience and religion to the extent to which it made no exemption for possession or cultivation of any amount of cannabis for religious use by adults in the Rastafari religion. Justice Ventose found that prohibition could not be justified on the basis of the potential harm caused by cannabis —

> "*the existence of some harmful effects of cannabis use on a limited number of persons in society does not justify a total ban or a blanket prohibition on the use, possession and cultivation of cannabis in relation to all adults. These reasons do not justify the complete prohibition on the use, possession and cultivation of*

[93] CARICOM, n. 4, 11.
[94] CCT108/17 [2018] ZACC 30.
[95] Claim No. SKBHCV2017/0234.

cannabis by adults contrary to the right to freedom of conscience guaranteed to the Claimant under sections 3 and 11 of the Constitution. It is accepted that the State has a legitimate interest in preventing harm to others, but the evidence adduced by the Defendants does not show that a total prohibition is necessary to achieve the aims which the Defendants claim that the Drugs Act attempts to achieve."[96]

6.2.3 The Court also found that the legislation was inconsistent with the right to privacy to the extent to which it made no exemption for possession or cultivation by an adult (regardless of religion) in a private place of any amount of cannabis for his or her personal use in private. Justice Ventose stated —

"*Although cannabis poses a health risk to some vulnerable members of the population, such as children, pregnant women and young persons, that alone is no good reason for the blanket prohibition on the use, possession and cultivation of cannabis by adults for personal use in private….The paternalistic assumption that many have that the private use of cannabis is wrong and unhealthy cannot be used to justify the continued contravention of the Claimant's right to privacy. The moral views of one section of the community do not and can never justify any limitation on the Claimant's fundamental rights and freedoms or the fundamental rights of any other person in Saint Christopher and Nevis, particularly the right to privacy…There is no principled basis to hold that the use, possession and cultivation of cannabis contravene the right to freedom of conscience…but at the same time accept that they do not contravene the right to privacy*."[97]

6.2.4 A number of jurisdictions in the Caribbean have acknowledged the religious importance of cannabis by legislating to provide for consumption, possession and cultivation of cannabis by people practising the Rastafarian faith.[98]

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[96] At [61].
[97] At [98] – [99].
[98] For example, Saint Kitts and Nevis, Jamaica, Antigua and Barbuda.

6.2.5 Aside from constitutional considerations, the health and socioeconomic impacts of prohibition should be considered from a broader human rights perspective. The United Nations Office on Drugs and Crime has noted how prohibition undermines the United Nations Sustainable Development Goals —

> "*Since the mid-20th century, global drug policy has been dominated by strict prohibition and the criminalisation of drug cultivation, production, trade, possession and use – with the intention of creating a drug-free world. This so-called 'war on drugs' has not only failed, it is also undermining efforts to tackle poverty, improve access to health, protect the environment, reduce violence, and protect the human rights of some of the most marginalised communities worldwide*."[99]

6.2.6 The Global Commission on Drug Policy, in evaluating the impacts of prohibition, provided a blunt assessment —

> "*The global war on drugs has failed, with devastating consequences for individuals and societies around the world. Fifty years after the initiation of the UN Single Convention on Narcotic Drugs, and 40 years after President Nixon launched the US government's war on drugs, fundamental reforms in national and global drug control policies are urgently needed*."[100]

6.2.7 In response to its assessment, some of the key recommendations of the Global Commission were —

1. End the criminalisation, marginalisation and stigmatisation of drug users who do no harm to others.
2. Replace drug strategies driven by ideology and political convenience with strategies based on science, health, security and human rights.

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[99] Health Poverty Action, *Drug Policy and the Sustainable Development Goals* (United Nations Office on Drugs and Crime, 2015), 1, https://www.healthpovertyaction.org/wp-content/uploads/2018/12/HPA-SDGs-drugs-policy-briefing-WEB.pdf.

[100] Global Commission on Drug Policy, *War on Drugs: Report of the Global Commission on Drug Policy* (2011), 2, https://www.globalcommissionondrugs.org/wp-content/uploads/2017/10/GCDP_WaronDrugs_EN.pdf.

3. Experiment with models of legal regulation of drugs that undermine organised crime.
4. Invest in treatment and prevention.
5. Ensure that the international conventions are interpreted or revised to accommodate experimentation with harm reduction, decriminalisation and legal regulation.[101]

7 REFORM MODELS

7.1 Decriminalisation

7.1.1 Decriminalising possession and consumption of small amounts of cannabis is the most conservative approach to reform. Under this model, possession and consumption are not subject to criminal penalties. These activities may be subject to administrative or fixed penalties, or no penalties at all.

7.1.2 Decriminalisation combats the negative socioeconomic impacts of prohibition, such as its disproportionate criminal justice impact on certain demographics, and reduces the resource burden on police, prosecutors, the courts and the corrections service. It also creates an opportunity to reduce the negative health impacts of problematic cannabis use by reducing the stigma and legal risk of seeking help.

7.1.3 However, decriminalisation does little to combat the illegal market for cannabis. If there is an increase in cannabis use following decriminalisation (which is possible but not certain), then the illegal cannabis market will expand. This can be mitigated to some extent by permitting cultivation of cannabis for personal use. However, there remains no regulatory control over other forms of supply and therefore no control over the quality or potency of cannabis entering the market.[102]

[101] Global Commission on Drug Policy, n. 100, 2-3.
[102] CARICOM, n. 4, 63.

7.2 Strict legalisation

7.2.1 A strict legalisation approach involves legalising production and supply of cannabis within a tightly controlled regulatory framework. A number of jurisdictions have adopted this approach, with variations in their supply models and in the level of state control. While some jurisdictions, such as Uruguay, strictly control and limit production and supply with a focus on public health and combatting the black market, others, such as the US, allow cannabis markets to operate on a more commercial basis, with a focus on tax revenue. While some jurisdictions limit production and supply to licensed entities, others, such as Uruguay, Malta and Germany, allow for cannabis clubs to grow and distribute cannabis.

7.2.2 The variations in focus within the strict legalisation model are illustrated by the regimes in Canada and the US. While the various US states and Canada all require cannabis producers and retailers to be licensed, the objectives of regulation are different, resulting in different outcomes. Because cannabis remains prohibited under US federal law, all regulation of cannabis markets is undertaken at a state level. This has led to a patchwork of regulatory controls without a singular focus on harm minimisation. Instead, state regulation allows the state to capture, by way of tax revenue, some of the revenue that would otherwise be captured by the black market. New product varieties, ease of access to retailers and marketing all expand the market and thus the tax revenue generated. The Canadian regime is regulated at a federal level, with provinces and territories permitted to impose stricter, but not more lenient, controls in relation to some regulatory matters. The Canadian system has been designed to regulate, rather than expand, the market for cannabis. As a result, Canada has much stricter controls in relation to product potency, product types, product testing, packaging, advertising and marketing.

7.2.3 The strict legalisation approach has been promoted as a responsible, health-focused reform model. In particular, it has been noted that the legal regulation of production, supply and use of cannabis is consistent with the accepted approach to managing the

health and social risks of other harmful substances, such as tobacco and alcohol.[103] However, the extent to which a strict legalisation model focuses on harm reduction varies significantly between jurisdictions.

7.3 Liberal legalisation

7.3.1 A liberal legalisation model would remove most or all regulatory controls over cannabis (that is, an entirely free market would prevail).[104] This is not the approach taken in relation to alcohol, tobacco or any other drug, and would carry significant risks of health and social harm.

7.4 Hybrid legal regulation

7.4.1 The CARICOM Commission identified hybrid legal regulation as a feasible incremental approach to reform, noting that this approach draws on the best aspects of both decriminalisation and legalisation, with a focus on public health, justice, human rights and economic opportunities. This approach retains some aspects of prohibition, but on the basis of risk. For example, high-potency and high-risk cannabis products would be prohibited. Consumption by minors and in public places would be prohibited. State controlled distribution, potentially by way of public/private partnerships with commercial suppliers, would allow for product control and undermine the black market. The use of cannabis would be discouraged through education strategies like those employed for alcohol and tobacco, in accordance with WHO guidelines.[105]

[103] CARICOM, n. 4, 64.
[104] CARICOM, n. 4, 63.
[105] CARICOM, n. 4, 64-65.

7.5 CARICOM Commission recommendations

7.5.1 The CARICOM Commission undertook a comprehensive, consultative examination of cannabis regulation across the region. It made a number of recommendations for cannabis reform, the most relevant of which are extracted here —

(a) cannabis should be classified as a controlled substance rather than a dangerous drug;

(b) CARICOM states should substitute prohibitive, criminally sanctioned regimes with legal and social policy that emphasises public health, education and human rights;

(c) cannabis should be prohibited for children and adolescents except for medical reasons, but young people who use cannabis should be directed to treatment and diversion programs rather than being prosecuted;

(d) small farmers and small businesses should be included in cannabis production and supply arrangements with appropriate controls limiting large enterprise and foreign involvement;

(e) distribution points for cannabis and its products should be limited;

(f) special provision should be made to protect religious rights involving the use of cannabis;

(g) historical criminal convictions for activities permitted under the new regime should be expunged;

(h) restrictions aligned with those for tobacco and vaping should be adopted to restrict public smoking of cannabis;

(i) cannabis use should be banned in public spaces (particularly those frequently used by children) with exceptions for Rastafarians on religious grounds;

(j) the locations of cannabis retail establishments should be regulated to ensure an appropriate distance from playgrounds and schools;

(k) retailers that sell other products to minors should not be permitted to sell cannabis;

(l) the appearance, packaging, and labelling of cannabis products should be regulated to minimise their appeal to children and young people;

(m) cannabis marketing should be restricted;

(n) retail of cannabis should be tightly regulated and licensed;

(o) THC limitations should be imposed on cannabis products;

(p) pricing of cannabis should be designed to deter consumers from purchasing cannabis through illegal means;

(q) moderate taxes on legal cannabis sales should be imposed to suppress the black market;

(r) availability of cannabis should be limited by placing caps on retail density and hours of sale; and

(s) public education programs should be prioritised.[106]

7.5.2 While these recommendations envisage a hybrid legalisation approach, including the legal production, distribution and retail of cannabis, a number of recommendations can be extracted that are relevant to other models of reform, such as decriminalisation.

8 BARRIERS TO REFORM

8.1 International obligations

8.1.1 The UN Conventions were predicated on assumptions about the most effective response to drug harm that are now widely considered to be outdated in some respects. The punitive approach taken by the Conventions is viewed, even by some UN agencies, as

[106] CARICOM, n. 4, 66-68.

counterproductive, inflexible and in need of reform. The provisions relating to cannabis in particular were not based on scientific evidence about cannabis use and harm, as reflected in their recent re-scheduling in accordance with WHO recommendations.

8.1.2 International law largely derives its authority from the consent and consensus of sovereign states. The Global Commission on Drug Policy considers that consensus has fractured and that the treaty framework is in transition.[107] The authority of the UN Conventions has been diminished by this fractured consensus and by the significant reforms undertaken by Parties such as Canada and Uruguay in contravention of the Conventions.[108]

8.1.3 The imprecise wording of the UN Conventions provides some latitude for limited reforms by Parties. For example, article 33 of the 1961 Convention requires Parties to prohibit possession of drugs "*except under legal authority*". The extent to which this wording can be stretched to permit decriminalisation of possession has been subject to dispute. Article 22(1) of the 1961 Convention requires cultivation of cannabis to be prohibited if "*the prevailing conditions in the country or territory of a Party render the prohibition of the cultivation…the most suitable measure, in [the Party's] opinion, for protecting the public health and welfare and preventing the diversion of drugs into illicit traffic…*" This provision contains a number of prerequisites, all of which are subject to interpretation, before the requirement to prohibit cultivation is invoked. In addition, article 36 of the 1961 Convention and article 4 of the 1988 Convention allow Parties to adopt alternatives to criminal sanctions for drug offences. The requirement under article 3(c) of the 1988 Convention to criminalise the possession, purchase or cultivation of drugs for personal consumption is subject to a Party's "*constitutional principles*". A number of Parties have

[107] CARICOM, n. 4, 60.
[108] CARICOM, n. 4, 60.

utilised this flexibility to justify decriminalising small-scale possession and consumption of cannabis.[109]

8.1.4 The International Narcotics Control Board (the "INCB"), which was established to monitor compliance with the UN Conventions, has historically adopted highly restrictive interpretations of Convention requirements, even when reforms have been widely considered to be Convention-compliant. More recently, the INCB has taken a more favourable approach to limited reforms focused on harm reduction, even arguing that the Conventions need to be implemented in full compliance with human rights obligations. The INCB now considers decriminalisation of possession for personal use to be generally consistent with the Conventions.[110]

8.1.5 However, the INCB maintains a strict view that legalising the production and trade of recreational cannabis contravenes both the objects and the core provisions of the UN Conventions.[111] This is demonstrated by the INCB's response to the patchwork of regimes in the US. The US government has argued that it is not in breach of its Convention obligations because cannabis remains prohibited under federal law, referring to the recognition of constitutional limitations in article 36 of the 1961 Convention and article 3 of the 1988 Convention. The INCB refutes this, stating that the regimes in place in the various states, despite the federal prohibition, represent a "violation of the international drug control legal framework".[112]

8.1.6 In the absence of treaty reform, the trend of non-compliant reform threatens the integrity of the treaty framework. Walsh and Jelsma have argued —

> "*There can be no doubt that the existing instances of legal regulation are out of compliance with provisions of the UN drug treaties. As more jurisdictions move in*

[109] Walsh and Jelsma, "Regulating Drugs: Resolving Conflicts with the UN Drug Control Treaty System" (2019) *Journal of Illicit Economies and Development* 1(3), 101.
[110] Bakowski, n. 80, 3.
[111] Walsh and Jelsma, n. 109, 267.
[112] Walsh and Jelsma, n. 109, 267.

this direction, treaty tensions will increase. The limits of flexible interpretations have been reached and overstretching them with legally dubious arguments would undermine basic principles of international law. States that intend to move towards legal regulation, or that have already done so, are therefore obliged to explore other options to reconcile such policy changes with their obligations under international law."[113]

8.1.7 Rather than attempt to shoehorn its reforms into the UN Convention framework, Uruguay has justified its contravention on the basis that it is upholding its human rights obligations by doing so. It has argued that its laws are consistent with the public health and welfare objectives of the UN Conventions, which cannot be achieved by strict adherence to them. Moreover, Uruguay argues that wider UN human rights obligations take precedence over the drug control obligations.[114]

8.1.8 Canada has also asserted that its reforms are consistent with the health and welfare goals of the UN Conventions, while acknowledging that the reforms contravene some obligations. The INCB, in turn, has accused Canada of having "contributed to weakening the international legal drug control framework and undermining the international rules-based order".[115]

8.1.9 While these jurisdictions have proceeded with legalisation despite the UN Conventions, British Overseas Territories such as the Cayman Islands are likely to be prevented from doing so. Cayman Islands Bills do not become law until they receive the Governor's assent on behalf of the King. Under section 78(2) of the Constitution,[116] the Governor is empowered to refuse assent to a Bill. In addition, the Governor is required to reserve for the signification of His Majesty's pleasure any Bill that appears to be inconsistent with any

[113] Walsh and Jelsma, n. 109, 268.
[114] Hudak, Ramsey and Walsh, n. 72, 7.
[115] Walsh and Jelsma, n. 109, 268.
[116] *Cayman Islands Constitution Order, 2009*, Sch 2.

of the United Kingdom's international obligations, unless a Secretary of State has authorised the Governor to assent.

8.1.10 The interventions by the United Kingdom to prevent the enactment of cannabis reforms in Bermuda and the British Virgin Islands justify a cautious approach. It should be noted that the licensing regime proposed by Bermuda amounted to full legalisation, while the British Virgin Islands regime allowed for lawful dispensing of up to 50 grams of cannabis without a medical prescription. These reforms are significantly more problematic in relation to the UN Conventions than simple decriminalisation of possession and consumption of small amounts, a distinction highlighted by the Governor of Bermuda.[117]

8.1.11 It should also be noted that the United Kingdom did not intervene when Bermuda decriminalised possession of up to seven grams of cannabis in 2017. The intervention in the proposed decriminalisation in the British Virgin Islands may have been precipitated by the particular context in that jurisdiction at the time, in terms of the level of drug trafficking and allegations of corruption by public officials. In addition, the Bermuda reform was quite conservative. The Director of Public Prosecutions retains discretion to prosecute possession if the evidence indicates an intention to supply the drug, and the police retain power to seize any amount of cannabis.[118]

8.2 Banking barriers

8.2.1 There are substantial banking challenges and risks involved in legalising the supply of cannabis. The cannabis industry is associated with a range of risks, including money laundering and terrorist financing links. The Financial Action Task Force defines de-risking as "the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk."[119]

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[117] Statement by H.E. Governor Rena Lalgie on Cannabis Licensing Bill (2022), https://www.gov.uk/government/news/governor-of-bermuda-update-on-cannabis-licensing-bill.
[118] *Misuse of Drugs Act 1972* (Bermuda), ss 6 and 25A.
[119] Eastern Caribbean Central Bank, *Flagship Report: The Medicinal Cannabis (R)evolution* (2019) https://www.eccb-centralbank.org/news/flagship-report-on-medicinal-cannabis, 19.

The Cayman Islands banking sector relies on correspondent banking relationships to facilitate transactions. Legalising any form of trading in cannabis carries a high risk that correspondent banks may sever their relationships with banks operating in the Cayman Islands.

8.2.2 The US *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act 2001* (the "PATRIOT Act") in particular presents a significant challenge to any reform that legalises the retail of cannabis. The PATRIOT Act prohibits US financial institutions from processing the proceeds of activities that are illegal in the US, even if those proceeds were legally derived in another jurisdiction. Most non-US banks maintain correspondent banking relationships with US financial institutions. Under the PATRIOT Act, funds deposited into non-US banks that hold a US interbank account are interpreted as having been deposited in the US and are thus subject to forfeiture.[120] In order for non-US banks to avoid these regulatory controls, they need to sever correspondent banking relationships with US financial institutions. This would prevent such banks from processing international transactions and participating in the foreign exchange market.[121]

8.2.3 As the first jurisdiction to legalise the entire cannabis supply chain, Uruguay found an unexpected hurdle to its reforms in the PATRIOT Act. Pharmacies that opted to sell cannabis were already operating as pharmacies and thus had pre-existing banking relationships in place. Shortly after the reforms were enacted, two of the largest US financial institutions, the Bank of America and CitiBank, informed the Uruguayan banks that served pharmacies selling cannabis that they were required to sever these relationships.[122]

[120] Barry, "'We never thought this would be considered drug trafficking': International finance rules, policy space and Uruguay's regulation of recreational cannabis" (2023) *Global Public Health* 18(1), 8.
[121] Barry, n. 120, 8.
[122] Hudak, Ramsey and Walsh, n. 72, 7.

8.2.4 The cautious approach of the banking sector is also demonstrated in the US, where cannabis businesses have difficulty accessing banking services despite the appropriations-based restriction on federal interference in state cannabis legalisation. Businesses have been forced to utilise alternative systems to facilitate transactions, such as cryptocurrency and cashless ATMs that dispense vouchers rather than cash to pay for transactions.[123] Excluding businesses from traditional banking systems greatly increases the risks (including the risk of money laundering) associated with the cannabis industry, as regulators are significantly hampered in their ability to monitor the operations of producers and retailers.[124]

9 THE IMPACT OF DECRIMINALISATION AND LEGALISATION

9.1 Impact on cannabis use

9.1.1 Given that most cannabis reform has occurred within the last decade, many of the studies assessing the impact of legalisation or decriminalisation are inconclusive. It is estimated that the legal recreational cannabis markets in some jurisdictions will not reach maturity for at least another decade.[125] It is simply too early to assess with certainty the full impact of reform on cannabis use and harm, and whether there has been any impact on use of other substances such as alcohol, tobacco and illicit drugs.

9.1.2 However, it is possible to assess early trends in the impact of different models of reform. The impact of decriminalisation on cannabis use is quite different to the impact of legalisation. The UN World Drug Report 2025 summarised the impacts of legalisation in the Americas, while noting difficulties in measuring usage trends —

> "*It is difficult to measure the impact of policies that have legalized the supply chain for non-medical cannabis in jurisdictions in the Americas. Changes in an indicator*

[123] Eastern Caribbean Central Bank, n. 119, 30-31.
[124] Eastern Caribbean Central Bank, n. 119, 28.
[125] Yimer et al, "The adverse public health effects of non-medical cannabis legislation in Canada and the USA" (2025) *Health Policy* 10, 156.

before and after cannabis legalization can be misleading because trends in an indicator may not be related to the legalization status. Nevertheless, available data from jurisdictions that have legalized the non-medical use of cannabis show an accelerated harmful pattern of cannabis use in the years following the change in policy, especially among young adults. This harmful pattern relates most notably to frequent daily use, as well as to diversification in the use of cannabis products, many with a high THC content. Although legalization has thus far not led to an increase in cannabis smoking among adolescents (for whom access to the non-medical market remains prohibited), it seems that the regular vaping of cannabis has increased in recent years among this population group, which raises new concerns. Hospitalizations related to cannabis use disorders, and the proportion of people with psychiatric disorders, suicidal ideation and attempted suicide associated with regular cannabis use, have also increased in Canada and the United States, especially among young adults. By contrast, the number of people arrested and imprisoned for cannabis-related offences has decreased, but racial disparities continue to exist among those cases."[126]

9.1.3 It has been argued that the primary factors contributing to increased cannabis use following reform stem from market dynamics rather than the legal status of cannabis. These factors are —

(a) increased access to cannabis through retailers, particularly in jurisdictions with privatised distribution models;

(b) reductions in the retail price of cannabis; and

(c) the introduction of new cannabis products that are attractive to a wider range of consumers, such as edibles and tinctures, or that allow for a higher intake of THC

[126] United Nations Office on Drugs and Crime, n. 6, 66.

than through traditional means of consumption, such as concentrates and vapes.[127]

9.1.4 There is evidence that increased cannabis use in regulated markets is more prevalent among people living in close proximity to retailers and in places with fewer supply restrictions. For example, an increase in the number of retail licences issued in Ontario (Canada) has been associated with an increase in acute and chronic cannabis harms.[128] In addition to increasing access, areas with a high concentration of retailers are more likely to experience lower retail prices as a result of competition.[129] Cannabis prices have declined by 50% or more in some US states and are declining in other jurisdictions with legal supply.[130]

9.1.5 A range of other regulatory factors can influence demand. More liberal approaches to regulating the marketing of cannabis, such as those in some US states, have been linked with increased intentions to use cannabis among adolescents.[131] Similarly, the increased range of cannabis products available in jurisdictions with less-restrictive supply models have the potential to greatly expand the market for cannabis. Pre-rolled joints, edibles (including candies, chocolates, cookies and gummies), cannabis-based drinks and vapes all make cannabis more accessible to different types of users. While non-smoked methods of using cannabis reduce adverse respiratory impacts, oral and vaporised products often contain significantly higher concentrations of THC than herbal cannabis.[132] Cannabis concentrates, which can have THC concentrations of over 70%, are the fastest growing sector of the retail cannabis market in Washington state. Higher potency products are strongly associated with negative health outcomes such as cognitive impacts and psychosis.[133]

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[127] Manthey, Rehm and Verthein, n. 78, 3.
[128] Manthey, Rehm and Verthein, n. 78, 3.
[129] Manthey, Rehm and Verthein, n. 78, 3.
[130] Yimer et al, n. 125, 151.
[131] Manthey, Rehm and Verthein, n. 78, 3.
[132] Smart and Pacula, n. 84, 6.
[133] Smart and Pacula, n. 84, 6.

9.1.6 While the perceived risk of cannabis among adolescents in jurisdictions with legalised supply has declined, this has not necessarily been accompanied by an increase in adolescent use.[134] Studies conducted in the US have found a statistically significant positive association between increased retail access and emergency department visits, hospitalisations and disordered cannabis use among adults, but there is limited to no evidence of a similar impact among adolescents.[135] This indicates that regulation of retailers, such as age restrictions on sale, have been successful in limiting access to cannabis by adolescents.[136]

9.1.7 A 2025 study across five jurisdictions with different supply models (the Netherlands, Spain, the various US states, Uruguay and Canada) found common outcomes: a decrease in cannabis-related arrests, an increase in cannabis use among adults but not adolescents and an increase in cannabis-related healthcare utilisation. Consistent with other findings of an association between use, harm and retail access, negative health outcomes were most consistently found in the US states, where commercially-oriented cannabis retail and marketing prevails.[137] In addition, the US states were the only jurisdictions where conclusive evidence of increased intensive use of cannabis was found following legalisation.[138] While an increase in adult cannabis use was a common outcome, it should be noted that all the jurisdictions studied have some form of legal or quasi-legal supply model. The impact on cannabis use following decriminalisation is likely to be less significant.

9.1.8 A 2024 ACT government review of the operation of its 2020 cannabis reforms supports this assertion. The ACT reforms were restricted to decriminalisation. The review found that rates of cannabis use had remained stable, with fluctuations in use within the range

[134] Yimer et al, n. 125, 151.
[135] Cantor et al, "The association between physical availability of cannabis retail outlets and frequent cannabis use and related health harms: a systematic review" (2024) *The Lancet Regional Health – Americas* 32, 12.
[136] Belackova et al, "Getting 'The Whole Picture': A review of international research on the outcomes of regulated cannabis supply" (2025) *International Journal of Drug Policy* 142, 11.
[137] Belackova et al, n. 136, 2.
[138] Belackova et al, n. 136, 10.

seen prior to the reforms. In 2022-2023, 8.7% of people reported using cannabis in the previous 12 months, consistent with rates of use reported since 2007 of between 8.4% and 10.5%.[139] These figures were supported by data gathered from the National Wastewater Drug Monitoring Program. However, the number of people reporting daily cannabis use increased moderately, from 14% immediately before the reforms to 18% in 2022-2023.[140]

9.1.9 The ACT review found that ambulance attendances and hospital admissions relating to cannabis use remained stable following the reforms.[141] However, a fourfold increase in people seeking information and support for cannabis use was reported. This was attributed to a reduction in stigmarather than an increase in cannabis use, indicating that decriminalisation had the intended impact of improving health outcomes for users.[142]

9.1.10 Similarly, immediately following the commencement of Jamaica's reforms in 2015, there was an increase in cannabis use. However, this moderated over time. At the time of the CARICOM Commission, Jamaica's decriminalisation regime had been in place for three years. The data showed no significant increase in cannabis use or psychosis cases in that time.[143]

[139] ACT Government, n. 65, 16.
[140] ACT Government, n. 65, 17.
[141] ACT Government, n. 65, 21.
[142] ACT Government, n. 65, 36.
[143] CARICOM, n. 4, 11.

9.1.11 More recent data comparing the results of the 2023 Jamaica National Drug Prevalence Survey with the results of the 2016 survey found only a slight increase in use[144] —

Lifetime prevalence	
2016	2023
28.3%	30.4%
Past-year prevalence	
2016	2023
18%	19.2%
Current prevalence	
2016	2023
15.8%	17.1%

9.1.12 These outcomes, showing more significant increases in cannabis use where it is legalised rather than decriminalised, are consistent with the findings of alcohol and tobacco studies that associate greater access to retail outlets with increased use and harms. This includes access in terms of the density and proximity of retailers and their hours of operation. The WHO has identified regulating the density and hours of operation of alcohol retailers as a key strategy for reducing alcohol use and harms.[145]

9.1.13 It should also be noted that there is significant evidence that cannabis use has fluctuated over time regardless of legal status or availability. For example, cannabis use has increased since 2009 in many European countries, including Germany (where cannabis was not partially legalised until 2024), the Netherlands (where recreational cannabis has been available in coffee shops since 1976) and France (where cannabis remains illegal). In

[144] Ministry of Health and Wellness (Jamaica), *2023 National Drug Prevalence Survey Dissemination*, 8, https://www.moh.gov.jm/wp-content/uploads/2024/11/2023-National-Drug-Prevalence-Survey_Press-Conference_Adjusted.pdf

[145] Cantor et al, n. 135, 2.

fact, cannabis use in France is among the highest in Europe (and higher than the Netherlands), despite a strict prohibitionist regime with significant penalties.[146]

9.2 Impact on the black market

9.2.1 It has been argued that eliminating the illegal market entirely is an unrealistic goal.[147] In assessing options for reform, it is important to ensure that the perfect does not become the enemy of the good. Cannabis reform can deliver a range of health and social justice benefits, even if it does not eliminate the illegal drug trade entirely.

9.2.2 While legalising supply of cannabis might be expected to have a greater impact on the black market than decriminalisation, there is evidence that legalisation may, in some respects, support the illegal drug trade. The black market for cannabis continues to thrive in the US, undermining the success of the legal cannabis industry, both in terms of market share and tax revenue. There is evidence of significant overlap between the illicit and licit cannabis markets, with legally grown cannabis being trafficked to states where cannabis remains prohibited. The costs of complying with regulatory requirements have made it difficult for legal producers and retailers to compete on price with the black market. However, the price of legal cannabis has fallen significantly since legalisation.[148]

9.2.3 A key stated objective of the Canadian approach was to reduce the revenue streams of organised crime groups.[149] Data provided by Statistics Canada shows a decrease in expenditure on illegal cannabis products and a corresponding increase in expenditure on licensed products.[150] The illegal market persists, with unlicensed purchases accounting for 28.8% of expenditure on cannabis products in 2023. However, users appear to be shifting further away from the illegal market as time goes on. 73% of users reported using

[146] Manthey, Rehm and Verthein, n. 78, 4.
[147] Bouchard and Zakimi, "Cannabis Legalization and its Effects on Organized Crime: Lessons and Research Recommendations from Canada" (2025) *Sociological Inquiry* 95(2), 408.
[148] CARICOM, n. 4, 92.
[149] Bouchard and Zakimi, n. 147, 394.
[150] Bouchard and Zakimi, n. 147, 399.

legal retailers as their usual source of cannabis in 2023, an increase of 36% since 2019, when the legal purchase of cannabis became possible.[151]

9.2.4 However, the legal market in Canada has been hampered in displacing the illegal market by higher relative prices, inaccessibility of retail outlets and regulatory burdens.[152] There is evidence that the legal cannabis industry has created new opportunities for organised crime, with some licensed cannabis growers in Canada growing more cannabis than they report in order to supply the illegal market.[153] While some have argued for less stringent regulation of the legal cannabis industry in order to enhance its ability to compete with the illegal market, this may increase consumption and undermine the public health objectives of the regulated system.[154]

9.2.5 The legal supply of cannabis in Uruguay is tightly regulated, with a limited number of licensed suppliers and strict product limitations. Initially, only two strains of cannabis were available, with THC levels up to 9%, and cannabidiol (CBD) levels up to 3%. In 2022, a third strain was legalised, with a THC level of up to 15%, and CBD levels up to 1%. In late 2024, a fourth strain, which has a THC content of up to 20% and a CBD content of up to 1%, was approved. These initial restrictions contributed to the slow growth of the legal market as a proportion of all cannabis sales. However, as restrictions have eased and the number of suppliers (particularly distributors, in the form of cannabis clubs and licensed pharmacies) has increased, Uruguay's National Drug Board estimates that 46.7% of consumers now access the regulated cannabis market, and the market share of illegal pressed marijuana has fallen from 58.2% in 2014 to 6.7% in 2024.[155]

9.2.6 It should be noted that the growth potential of legal cannabis retail in Uruguay, and thus its capacity to displace the illegal market, is severely limited by the barriers to banking

[151] Bouchard and Zakimi, n. 147, 399.
[152] Bouchard and Zakimi, n. 147, 401.
[153] Bouchard and Zakimi, n. 147, 402.
[154] Bouchard and Zakimi, n.147, 408.
[155] Green, "Uruguay's Legal Cannabis Industry Continues to Erode Unregulated Market" (2026), https://internationalcbc.com/uruguays-legal-cannabis-industry-continues-to-erode-unregulated-market/.

created by the PATRIOT Act. Pharmacies wishing to sell cannabis are essentially required to operate entirely on a cash-only basis, including for their non-cannabis sales.[156] This creates significant safety risks and disincentives to participate in the cannabis market.

9.2.7 All forms of dealing in cannabis remain illegal in the ACT. However, decriminalisation does not appear to have expanded the illegal drug trade. The 2024 review found no increase in the proportion of users sourcing cannabis from a dealer, while people in the ACT were more likely than the national average to cultivate their own cannabis (legally) following the reforms.[157] The review found that there had been no increase in charges for trafficking and cultivation since the reforms.[158]

9.2.8 ACT Policing reported that the reforms had improved their relationship with cannabis users, allowing police to offer referrals to treatment and support services —

> "*Because we are taking a harm minimisation approach and because we're in the business of wanting to support people in the community, when we're interacting with them for whatever reason, even if someone has a small amount of cannabis but still identifies that they have a substance abuse issue, we can make referrals for them to support services.*"[159]

However, ACT Policing did report concerns that decriminalisation limited their engagement with suspected drug traffickers, who are aware of the allowable possession limit.[160] This is a relevant issue in the Cayman Islands, where police engagement for minor offences often leads to charges for more serious drug and firearms offences.

[156] Hudak, Ramsey and Walsh, n. 72, 10.
[157] ACT Government, n. 65, 24.
[158] ACT Government, n. 65, 19-20.
[159] ACT Government, n. 65, 27.
[160] ACT Government, n. 65, 31.

10 CONSULTATION QUESTIONS

10.1 The Commission invites submissions on the issues identified in this Paper. In particular, the Commission invites submissions in response to the consultation questions set out below.

10.2 The Commission recognises that the prohibition of cannabis possession and consumption is not generally regarded as an effective deterrent to cannabis use. The Commission also recognises that the criminal justice implications of prohibition disproportionately impact certain demographics, limiting the economic mobility of those convicted of minor cannabis offences.

10.3 The Commission recognises that cannabis consumption can have negative health and safety impacts, both on the individual and the community. However, alcohol and tobacco present comparable, or in some cases greater, risks. Alcohol use, in particular, is normalised despite its addictive nature and its widely understood and potentially significant harmful effects on both the user and the community. The mainstreaming of alcohol use and its central role in social events, celebrations and the hospitality industry have created the perception that it can be used regularly and in moderation by the majority of adults and that its associated harms are best managed through regulation and public health measures rather than prohibition.

10.4 The Commission notes that the negative impacts associated with cannabis consumption may also be more effectively managed without prohibition. In particular, the Commission acknowledges that cannabis users may be more likely to seek help for dependency or other cannabis-related health issues if the legal risk of prohibition is eliminated and the stigma surrounding cannabis use is reduced. The Commission notes that an effective health response to cannabis use requires sufficient resources to be allocated to both the prevention of cannabis uptake (by way of education) and the treatment of cannabis use disorder (by way of drug counselling and treatment services).

10.5 Selecting the appropriate model for reform involves balancing a variety of impacts against the goals of reform. Evidence from jurisdictions that have legalised the supply of cannabis

illustrates that a more restricted model of legal supply is likely to limit increases in consumption and its associated harms. Conversely, a less restricted model that allows suppliers to operate in a more commercial environment is more likely to diminish the illegal market by increasing access to a lower-priced variety of products that meet customer demand. Each approach has benefits and disadvantages.

10.6 The Commission notes the uncertainty surrounding the long-term impact of legalisation and decriminalisation. In light of this uncertainty, the Commission recommends a cautious approach to reform. The Commission is persuaded that retail access, price and product variety are key factors that determine the demand for any licit substance. It is highly likely that these factors have led to more significant increases in cannabis use and harm in jurisdictions with commercially-driven, legal cannabis markets than in those that have undertaken more restricted reforms. Decriminalising possession and consumption without optimising the conditions for increased demand (through retail access, lower prices, marketing and a wider variety of cannabis products) or reducing supply-side barriers (through legal production and sale) is the model least likely to significantly increase cannabis consumption. This approach would be most likely to reduce the negative impacts of prohibition while mitigating the risks of reform.

10.7 The Commission acknowledges the policy dissonance inherent in decriminalising possession and consumption while continuing to prohibit all forms of supply. In particular, the Commission acknowledges that such an approach does not combat the illegal drug market and its associated harms. However, the evidence from jurisdictions such as Jamaica and the ACT suggests that decriminalisation may not result in a significant increase in consumption, and therefore may not significantly expand the illegal drug market. By contrast, there is limited evidence that legalising supply results in a significant contraction of the illegal drug market – in fact, in some jurisdictions there is evidence that legally produced cannabis is used to supply the illegal market.

10.8 The Commission does not discount the possibility of developing a legal supply model at some point in the future. Rather, the Commission recommends a cautious, incremental

approach to reform focused on harm minimisation. Developing an effective regulatory framework for full legalisation is a highly complex and challenging task for any jurisdiction, let alone a small jurisdiction. This complexity is significantly exacerbated by the difficulties and risks associated with providing banking services to cannabis businesses. It is also essential that the health system be sufficiently resourced to respond to the medical implications of a potentially significant increase in consumption that may result from legalising supply.

10.9 In addition, the Commission holds the view that there is sufficient latitude in the UN Conventions to permit decriminalisation of possession and consumption of small amounts of cannabis. Conversely, the Commission considers that legalising the production and trade of recreational cannabis would be problematic under the UN Conventions and that assent to such reforms would likely be refused by the United Kingdom.

10.10 Accordingly, the Commission holds the view that any reform should be limited to decriminalising the consumption and possession of small amounts of cannabis, while the importation, production, distribution and sale of cannabis should remain illegal.

Consultation question 1

Do you think that the importation, production, distribution and sale of cannabis should remain illegal?

10.11 The Commission acknowledges that permitting the cultivation of a small number of cannabis plants for personal consumption will have a very limited impact on the illegal market for cannabis. However, evidence from the ACT demonstrates that a significant number of cannabis users choose to grow their own, thus reducing interactions with drug dealers.

10.12 If home cultivation of cannabis is permitted, the management of cannabis waste will need to be addressed. Some jurisdictions require cannabis waste to be rendered unusable and unrecognisable, often by mixing it with other materials, which can increase landfill

volumes. Clear guidance on safe disposal of both organic and non-organic cannabis-related waste is important to minimise environmental impacts and prevent misuse.

Consultation question 2

Do you think that the home cultivation of a limited number of cannabis plants for personal consumption should be decriminalised?

10.13 The Commission is cognisant of research indicating that cannabis can be particularly harmful to adolescents in terms of its effect on memory, learning and attention and the risk of early onset of psychosis. To minimise harm, it should be an offence to use cannabis in the vicinity of children or to store cannabis in a way that is accessible to children. However, there is merit in considering options other than prohibition to deter minors from consuming cannabis.

Consultation question 3

Do you think that consumption and possession of cannabis should be decriminalised for minors under the age of 18?

10.14 To mitigate the public health impacts and nuisance of secondary smoke, and to ensure that children are not exposed to cannabis use, the Commission considers that it should be an offence to use cannabis in a public place. Any reform should restrict cannabis consumption to private residential dwellings (but not if children are present).

Consultation question 4

Do you think that cannabis consumption should only be permitted in private residential dwellings?

10.15 Some jurisdictions that have decriminalised possession and consumption of cannabis have replaced criminal penalties with administrative penalties. While an administrative penalty scheme ensures that consumption and possession are removed from the criminal justice sphere, it creates an administrative burden for police and would have a

disproportionate economic impact on low-income cannabis users. Given the inefficacy of criminal penalties as a deterrent to cannabis use, the Commission is not persuaded that there is any meaningful policy advantage to imposing administrative penalties instead.

Consultation question 5

If the consumption and possession of small amounts of cannabis is decriminalised, do you think administrative penalties should apply, or no penalties at all?

10.16 However, administrative penalties may be an option in the case of minors found in possession of small amounts of cannabis. This would divert minors from the criminal justice system while allowing the law to be enforced. Payment of the administrative penalty would discharge liability for the offence.

Consultation question 6

If consumption and possession of cannabis by minors is not decriminalised, do you think that criminal penalties should be replaced with administrative penalties?

10.17 The Commission notes that cannabis resin is significantly more potent than dried cannabis. Further, the Commission notes that cannabis vapes, edible cannabis products, cannabis syrups, cannabis drinks, cannabis tinctures and cannabis extracts may be very potent and also extend the appeal of cannabis to a wider (and potentially younger) range of consumers. Although such products lessen the nuisance and respiratory health impacts of smoked cannabis, it is not possible to control the potency of these forms of cannabis without a comprehensive system to regulate importation, manufacture and supply. To minimise harm, decriminalisation should be limited to dried cannabis only.

Consultation question 7

Do you think that decriminalisation should be limited to dried cannabis and not extend to cannabis resin and other cannabis products?

10.18 The empirical data suggests that the possession limit for dried cannabis should be 30 grams. If home cultivation of cannabis is also permitted, it will be necessary to establish a possession limit for 'wet' or harvested cannabis. The 'wet' equivalent of 30 grams of dried cannabis is approximately 150 grams. If home cultivation is permitted, the Commission's preliminary view is that this should be limited to four cannabis plants per household.

Consultation question 8

Do you agree with a possession limit of 30 grams of dried cannabis and 150 grams of 'wet' or harvested cannabis?

Consultation question 9

Do you agree with a cultivation limit of up to four cannabis plants per household?

10.19 While the Commission was not asked to consider the treatment of historic minor cannabis convictions, expunging historic convictions aligns with the policy goals of decriminalisation. As such, if possession and consumption of small amounts of cannabis are decriminalised, the Commission considers that historic convictions for conduct that is no longer an offence should be expunged. Specifically, this would entail expunging convictions under section 3(1) of the MDA for possession of up to 30 grams of dried cannabis or 150 grams of wet cannabis, for consumption of cannabis, and for cultivating up to four cannabis plants.

Consultation question 10

Do you think that historic minor cannabis convictions should be expunged?

11 CONCLUSION

11.1 The options outlined in this Discussion Paper provide the basis for consultation to determine the best option for reform in the Cayman Islands.

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