



Putting patients before politics.

This document contains information regarding the use of [a bong, hash pipe, a roach clip](#), non-medically approved dry herb vaporisers, accessory, or any other cannabis utensil for consuming legally supplied cannabis.

[MCANZ](#) has enquired, and received official responses from the New Zealand Ministry of Health Strategy Policy and Legislation team to provide some clarity on this matter.

New Zealand Police have then further updated their guidelines to support this.

We thank Stephen Glover, Anne-Margaret Campbell, and all those involved at the Ministry of Health, for the support and guidance provided.

We would like to further extend this gratitude towards the New Zealand Police in regards to ensuring up to date training, procedures, instructions, and policies related to cannabis. Which can be seen in the updates to [Part 14 of the Drugs - Police Manual chapter](#).

Please see the Ministry of Health's responses on the following pages.

From: SPL-Office of the DDG - Wednesday June 7th 2023.

Thank you for your emails to the Medicinal Cannabis Agency asking about the laws surrounding third party accessories used with legal medicinal cannabis vaporisers. It has been referred to the Ministry of Health for reply. The Ministry is not able to give legal advice on specific situations. However we have looked into the questions you raise and can provide the following clarification as to what the law permits.

The Ministry publication you refer to is from 2016 and is a discussion document. It is not intended to give advice to consumers of medicinal cannabis. Information for consumers of medicinal cannabis is found here: [Medicinal Cannabis Agency - Information for consumers | Ministry of Health NZ](#).

A person who possesses an accessory for the purpose of taking their prescribed medicinal cannabis would not breach the [Misuse of Drugs Act 1975](#) because they are not using it “for the purpose of the commission of an offence against this Act” [\(s13\(1\)\(a\)\)](#).

Under the [Misuse of Drugs \(Prohibition of Utensils\) Notice 2020](#), a vaporiser can only be imported and sold in New Zealand if it has been approved as a medical device by an overseas regulator. We note on the Mighty Medic’s website, there is a glass attachment available “designed to fit the Mighty Medic and Mighty Medic+ Vaporisers in place of the mouthpiece”. This appears to be legitimate. However, regarding third party accessories generally, we cannot give you a clear answer on the question of lawfulness because there could potentially be various legal arguments made in a court of law. We agree that there is no public interest in taking enforcement action in response to attachments that reduce harm.

With regard to the more general concerns in your follow up email, we are aware of concerns about the impacts of the [Notice](#). We intend assessing the [Notice](#) as part of our regulatory stewardship work programme next year. We will take into account the issue you have raised.

Thank you again for raising this matter with us.

Ngā mihi

Stephen Glover

Sent from:

Office of the Deputy Director-General

Strategy Policy and Legislation | Te Pou Rautaki

Manatū Hauora, 133 Molesworth Street Thorndon, Wellington 6011



MINISTRY OF HEALTH

From: SPL-Office of the DDG - Friday June 23rd 2023.

Thank you for your further email of 7 June 2023 with follow up questions. You have asked for the Ministry of Health's views on the use of non-medically approved dry herb vaporisers for taking medicinal cannabis.

A person who possesses a non-medically approved dry herb vaporiser for the purpose of taking their prescribed medicinal cannabis would not breach the Misuse of Drugs Act 1975 because they are not using it "for the purpose of the commission of an offence against this Act" [\(s13\(1\)\(a\)\)](#).

With regard to the law on how medicinal cannabis may be taken, while smoking medicinal cannabis is not permitted [\(regulation 20\(1\) of the Misuse of Drugs \(Medicinal Cannabis\) Regulations 2019\)](#), there is no law against a person inhaling their prescribed medicinal cannabis using an un-approved vaporiser. However, it is advisable that they use an approved vaporiser if the product has been prescribed for the purpose of inhalation. Medicinal cannabis products that are verified as meeting the minimum quality standard must state the route of administration on their labelling - see this link for a list of products: <https://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicinal-cannabis-agency/medicinal-cannabis-agency-information-health-professionals/medicinal-cannabis-products-meet-minimum-quality-standard>.

Consequently the Medicinal Cannabis Agency's guidance to health professionals is: "The administration of some medicinal cannabis products requires a vaporiser. Vaporisers can be purchased from the NZ supplier, or imported directly. The [Misuse of Drugs \(Prohibition of Utensils\) Notice 2020](#) sets out that a vaporiser can be imported and sold, only if it has been approved as a medical device by an overseas regulator. This ensures the vaporiser will provide a safe method for administering medicinal cannabis." [Medicinal Cannabis Agency - Information for health professionals | Ministry of Health NZ](#).

We appreciate the cost of these devices can be a concern.

We trust this answers your questions.

Ngā mihi

Stephen Glover

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MINISTRY OF HEALTH

From: SPL-Office of the DDG - Wednesday August 15th 2023.

Thank you for your additional emails on 28 July and 3 August. I hope that the information provided below helps to clarify some of the issues that you have raised in your emails.

*“Other vaporiser devices, and utensils with prohibited features, continue to be prohibited from New Zealand and may be confiscated by Customs.”*

This statement from Manatū Hauora’s website relates to the Misuse of Drugs (Prohibition of Utensils) Notice 2020 (not the Misuse of Drugs Act 1975), which prohibits the importation, supply, and offer for sale of cannabis utensils and identifiable components of cannabis utensils. Under this notice, a vaporiser that has been approved as a medical device by an overseas regulator, is not a cannabis utensil. We will review our website information for clarity.

Thank you for raising the issues regarding Police Instructions. We have spoken to Police about these issues. Police confirmed that they have reviewed their medicinal cannabis guidance for frontline officers and are in the process of updating this. The updated guidance specifically covers the situation of officers identifying a person in possession of cannabis who states that it is legally obtained by means of a prescription.

Finally, I would like to clarify the information that was given regarding regulation 20(1) of the Misuse of Drugs (Medicinal Cannabis) Regulations 2019:

*“A medicinal cannabis product must not be in a form intended for smoking.”*

In our prior correspondence, I had suggested that this meant smoking medicinal cannabis is not permitted, however this was inaccurate. Regulation 20(1) of the Misuse of Drugs (Medicinal Cannabis) Regulations 2019 means that a product lawfully supplied under the Regulations cannot be in a form intended for smoking. Accordingly, dried cannabis flower products will be intended for administration either by inhalation via a vaporiser or in preparations of tea for oral consumption.

I trust that the above information has assisted in answering your queries.

Ngā mihi

Stephen Glover

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MINISTRY OF HEALTH

In summary a legal Medical Cannabis patient who either uses a Bong or similar device for the cooling of hot Cannabis vapour from either a medically or non-medically approved dry herb vaporiser. Isn't using either these devices in a way to commission an offence against Misuse of Drugs Act 1975 [\(s13\(1\)\(a\)\)](#). This is because they are in lawful possession of their dried Medicinal Cannabis flower that the patient has been legally prescribed by a doctor. Doctors may also issue letters to patients further supporting the use of third party accessories to aid in sufficient vapour cooling.

As without sufficient vapour cooling, Hot Cannabis vapour can lead to Paroxysmal coughing. Paroxysmal coughing involves frequent and violent coughing that can make it hard for a person to breathe. In some cases it can become so intense that a patient vomits. And in very severe cases patients' lips or skin can turn blue from a lack of oxygen in the blood. It is apparent beyond all reasonable doubt that the use of Bongs or other devices whether bought from a store or home made are harm reduction devices first and foremost. And need to be treated as such.

It has been affirmed by the NZ Ministry of Health that they "agree that there is no public interest in taking enforcement action in response to attachments that reduce harm". Even outside the scope of people who are legally doing so. As such it's very clear that the NZ Police and other officials need to understand this.

In relation to people who smoke cannabis instead of using a dry herb vaporiser, it would be inaccurate to say this is not permitted, this also is legal. It's just not typically intended to be used that way. Instead with a dry herb vaporiser normally, see a copy of the law below:

#### 20 Form and dosage form

- (1) A medicinal cannabis product must not be in a form intended for smoking.
- (2) A dosage product—
  - (a) must be in a pharmaceutical dosage form for which there is a monograph in the European Pharmacopoeia; and
  - (b) must comply with the requirements of the monograph; but
  - (c) must not be in a sterile dosage form.

And given the complex set of circumstances surrounding why a patient may choose this route.

We implore the NZ Police and other officials to follow the advice from the Ministry of Health and the documentation set forth in [Part 14. Medicinal Cannabis](#) of the "Drugs - Police Manual chapter".

Excerpt from this document from page 7 of 11:

#### **Policy and practice for palliation patients who use cannabis or a patient with cannabis on prescription**

- People found in possession or using cannabis and/or utensils who claim as a defence;
- that they require palliative care are required to produce verification in the form of a certificate from a medical practitioner or nurse practitioner, **or**
  - a prescription to use cannabis as a means of verifying the prescription or medicine container with a pharmacy label, **or**
  - a letter from a medical practitioner stating that they have prescribed the person medicinal cannabis

We implore the NZ Police to follow the advice from the documentation set forth in [Part 15. Police discretion with possession/use of controlled drugs and/or possession of utensils offences](#) of the “Drugs - Police Manual chapter”.

Excerpt from this document from page 10 of 21:

**Overarching discretion approach:** In line with the [Solicitor-General's Prosecution Guidelines](#), prosecution should not be brought **unless** it is [required in the public interest](#). When considering whether a prosecution is required in line with the public interest test, also consider whether a health-centred or therapeutic approach would be more beneficial to the public interest.

**Constabulary discretion principles:** The following constabulary discretion principles should be considered: The guidance for constabulary discretion emphasises that consideration should be given to whether a therapeutic approach would be more beneficial to the public interest before a decision is taken to prosecute for the possession or use of controlled drugs ([as defined under section 7 in the Misuse of Drugs Act 1975](#)).

This document can be viewed on our website by going to: [mcanz.org.nz/links](https://mcanz.org.nz/links) and clicking on Cannabis Accessories & Law. Or alternatively please scan this QR code below to go to the above link then click on Cannabis Accessories & Law.

