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Felicia Bailey | Is It Legal To Use Ganja? – Part 1

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April 15, 2020, marked the fifth year since the amendments to the Dangerous Drugs Act (DDA). These amendments provided for the modification of penalties for the possession of

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ganja in specified small quantities and the smoking of ganja in specified circumstances, as well as the establishment of the Cannabis Licensing Authority (CLA) to regulate a regime for the issuance of licences, permits, and other authorisations for the handling of ganja for medical, therapeutic, and scientific purposes, among other things. Subsequently, the Dangerous Drugs (Cannabis Licensing) (Interim) Regulations, 2016 were enacted.

Despite the number of years that have passed since these major shifts in how cannabis, and in particular, ganja, is handled in Jamaica, most Jamaicans still do not clearly understand how these changes impact them or how the local cannabis industry works. I would like to take this opportunity to clarify some of the major misconceptions about the local industry.

In this two-part series, I will break down some aspects of the legal cannabis industry that are most commonly misunderstood. In this first part, I will focus on some of the changes enacted in the amendments to the DDA, the responsible agencies, and how cannabis can be accessed and used legally for medical, therapeutic, and scientific purposes.

THE CLA IS NOT THE ONLY GOVERNMENT AGENCY WITH RESPONSIBILITY FOR GANJA.

Several ministries, departments, and agencies of government (MDAs) play a role in managing the changes promulgated by the amendments to the DDA. These include the Ministry of Justice, which is responsible for the use of ganja as a sacrament by adherents to the Rastafarian faith; the Ministry of National Security, for matters dealing with illegal possession of ganja and for the expungement of records; the Ministry of Health, in issuing permits for medical use for persons not ordinarily resident in Jamaica; and the Cannabis Licensing Authority, in enabling a lawful regulated industry in hemp and ganja for medical, therapeutic, and scientific purposes. These MDAs also have other regulatory responsibilities under the DDA.

THROUGH THE DDA, THE CLA HAS:

1. The power to make, with the approval of the minister responsible for justice, regulations for the issuance and regulation of licences, permits, and authorisations for the handling of hemp and ganja for medical, therapeutic, and scientific purposes; and
2. The duty to ensure that regulations made do not contravene Jamaica's international obligations.

Therefore, the authority is responsible for regulating cannabis handled only for medical, therapeutic, and scientific purposes. 'Handled', in this case, includes the use, cultivation, processing, importation, exportation, transit, manufacture, sale, possession, and distribution of cannabis. The authority, however, is not responsible for the handling of medicinal preparations of cannabis; this is the purview of the Ministry of Health and Wellness.

WHY DOES THE CLA REGULATE MEDICAL CANNABIS?

Jamaica is a signatory to the United Nations' (UN) International Drug Control Conventions, namely:

1. The Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol;

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2. The Convention on Psychotropic Substances of 1971; and

3. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

Understanding the far-reaching impact of non-compliance with these conventions, the Government of Jamaica established the CLA with a mandate to ensure that the regulations created and activities conducted within the industry are in keeping with Jamaica's international obligations.

In essence, the CLA regulates to ensure the compliance, accountability, and transparency of the local medical cannabis industry. This facilitates the sustainability of the local medical cannabis industry and mitigates against any potential threat to the wider goals of the country that could result from a fallout with our international partners.

GANJA IS ONLY PERMITTED FOR MEDICAL, THERAPEUTIC, AND SCIENTIFIC PURPOSES.

It is a common misconception that the changes to the DDA, allowing for each household to grow five plants and for persons to not be arrested for being in possession of up to two ounces of ganja, means that ganja is now legalised. For starters, the five plants or fewer allowed for each household should be for the medical or therapeutic use of the leaves or horticultural purposes. Additionally, because ganja is decriminalised and not legalised, persons found in possession of up to two ounces of ganja may be issued a ticket by the police, similar to a traffic ticket, and the person would have 30 days to pay the sum of J\$500 at any tax office.

However, there are exceptions made under the DDA for persons to be in possession of ganja even where these amounts exceed two ounces. These include where possession of ganja is for religious purposes as a sacrament or for medical or therapeutic purposes as recommended or prescribed by a registered medical practitioner. It must be emphasised that recreational use of ganja, as well as use by persons under the age of 18 years, is prohibited.

Persons who have been convicted of possession of two ounces or less of ganja before the amendments to the DDA are eligible to have the conviction expunged.

HOW DOES SOMEONE ACCESS GANJA LEGALLY FOR MEDICAL OR THERAPEUTIC PURPOSES?

Persons over the age of 18 who wish to access the benefits of ganja for medical or therapeutic use would do so through the retail herb house facilities or through facilities licensed to provide therapeutic or spa services using ganja.

Under the law, persons ordinarily resident in Jamaica (living here for three or more years) can access ganja through a prescription or written recommendation from a medical practitioner licensed to work in Jamaica. Visitors to Jamaica who are users of ganja for medical purposes may access up to two ounces of ganja with a voluntary declaration or a written recommendation from a certified medical practitioner in their jurisdiction along with a permit issued by the minister with responsibility for health.

WHAT ABOUT EDIBLES?

Edibles remain a controversial topic. Locally, these would fall under the jurisdiction of the Ministry of Health and Wellness (MOHW). The MOHW has made it publicly clear that the use of ganja edibles in any form is not supported. This includes the use of brownies, cookies, gummies, and sweets, among many other things, as a method of ingesting medicinal cannabis.

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