

## **Use of Approved Medical Cannabis Vapourisers with glassware/utensils**

Misuse of Drugs (Prohibition of Utensils) Notice 2020

<https://gazette.govt.nz/notice/id/2020-go1298>

**cannabis utensil** means any of the following utensils that may be used for administering cannabis, and that has 1 or more prohibited features:

- (a) a bong:
- (b) a hash pipe:
- (c) a roach clip with a pincer or tweezer action

For the avoidance of doubt, a vaporiser that has been approved as a medical device by an overseas regulator, is not a cannabis utensil, regardless of whether it has any of the prohibited features listed in this notice.

### **Further down the page:**

#### **prohibited feature means,—**

(a) in the case of a bong or a hash pipe, any of the following features:

- (i) more than 2 holes:
- (ii) more than 1 inhalation hose (breathing port):
- (iii) provision for cooling smoke by drawing the smoke through water:

(iv) a metal or ceramic or glass bowl:

(v) an insertion placed in a bowl, which is an insertion that is a gauze, a wire mesh screen, or an insertion made of material that is not designed or intended to be burnt or dissolved in the bowl:

(b) in the case of a roach clip with a pincer or tweezer action, a depiction of cannabis fruit, cannabis seed, or any part of the cannabis plant, or a depiction that could reasonably be taken to be a depiction of cannabis fruit, cannabis seed, or any part of the cannabis plant

## Misuse of Drugs Act 1975

<https://www.legislation.govt.nz/act/public/1975/0116/latest/DLM436101.html>

**Legal definitions** Under the Misuse of Drugs Act 1975, it is a criminal offence to:

- supply, import or offer for sale specified drug utensils
- possess a drug utensil if it is intended to be used for the commission of an offence against the Act, such as consuming a controlled drug, with specified exemptions for needles and syringes obtained through the needle exchange programme.

**Common sense approach:** If a patient has a current and valid prescription from a registered practitioner. Who has prescribed the patient a Medicinal Cannabis flower product, for inhalation. And is using an approved medical device surely isn't using any utensil in the commission of an offence against the Misuse of Drugs Act 1975.

Given the scope in the law, "The prohibition on drug utensils possession applies to any object (including knives and water bottles) if it can be proven that it was used to take a controlled drug". So based on that logic even using a silicone tube from the mouthpiece on a Mighty Medic (approved medical device), would be deemed a drug utensil if it was proven to be used for consuming a controlled drug. However in this unique circumstance the use of said utensil is purely a harm reduction measure, nothing else.

Dry herb medical Cannabis vapourisers such as the Volcano Medic 2, Mighty Medic & Mighty Medic Plus typically operate at between 180-210°C. And while both the Mighty Medic & Mighty Medic Plus have inbuilt coolers, these are not usually sufficient to adequately cool the hot vapour down prior to inhalation. And subsequently the inhalation of this hot vapour, causes respiratory flare-ups when inhaling this vapour directly from the device. In severe cases this can lead to major coughing fits resulting in one even vomiting, and feeling very ill for a period of time.

If for some reason neither of the above laws allow for the current lawful use of an approved medical vaporiser with glassware/other utensil. Then it has been affirmed Police may apply discretion in cases of possession and use of controlled drugs. Please see the content below from [Part 15 - Police discretion with possession/use of controlled drugs and/or possession of utensils offences](#)

## **Police discretion for personal possession/use of controlled drugs and/or possession of utensils**

This section offers guidance to Police employees on the use of constabulary discretion regarding offences of procuring, possession, consuming, smoking, and using controlled drugs (s7(1)(a)) and/or possessing utensils (13(1)(a)).

### **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](#)).
- Where addiction or resultant harm to the user, their family or whanau is suspected, or when requested by the user, officers are encouraged to make a connection to an appropriate health service.

The use of glassware and or other utensils such as a silicone tube, when used in conjunction with approved medical Cannabis vaporiser. Is definitely without a doubt purely from a harm reduction standpoint. And as stated above the NZ Police should consider whether a health-centred or therapeutic approach would be more beneficial to the public interest.

And for ultimate context, a person who seeks and personally funds a non-approved medicine without funding from Pharmac. And whom also uses an approved medical device that's also not funded by Pharmac. For the vaporisation and subsequent inhalation of Cannabinoids and Terpenes from a Cannabis flower. These people are wanting to be fully legal. And for NZ Police to seize, destroy and fine people for having glassware / other utensils. Is simply draconian in the context of prescription Medical Cannabis from a Doctor. And if the laws were better written, and there was more documentation about this topic there likely wouldn't be an issue.

**Ease of implementation** It is important that regulations can be implemented practically and with clarity for both the public and enforcement agencies. Regulations that are difficult to enforce or that rely heavily on discretionary enforcement can result in inconsistent application and public uncertainty.

Page 17 of 32 - MoH Review of Drug Utensils Regulation 2016



MoH Review of Drug Utensils  
Regulation



NZ Police (Part 15)