

Where we are in terms of the Law

Our president signed the Cannabis for Private Purposes Act (CfPPA) into law on 28 May 2024.

There are no regulations to go with the new law, yet. Regulations will deal with all the practical details of PRIVATE use and cultivation.

Cannabis is no longer part of the Drugs & Drug Trafficking Act of 1992. TRADE (or “dealing”) REMAINS COMPLETELY ILLEGAL.

Private Spaces

- Your rights are all based on privacy. Growing, possessing and consuming any amount in a private space is legal. You CANNOT be charged with just possession BUT possession of large (what is considered large depends on the cop) will most definitely lead to the assumption of dealing and you will be in for a difficult time.
- You CAN fly locally with your personal stash. Be reasonable with the amount.
- Your car is your private space, and so are your bag, pockets and shoes

Amounts / Dealing

VERY IMPORTANT: There are no maximum quantities of, or limits to how much Cannabis you can possess, grow or consume. IN PRIVATE. However, large grows; sophisticated equipment, cash, extraction equipment, etc. are all visually very appealing to the cops. KEEP IT REASONABLE & PRIVATE.

Be careful of “snitch on your neighbour”. Feuds, business dramas and otherwise bad relations with those who know you and your weed can lead to a visit from the cops. KEEP IT PRIVATE.

To be prosecuted for dealing, evidence must be marked notes, undercover police, or video or photographic evidence.

No QUANTITY of Cannabis can indicate dealing. No matter what the cops say to you.

Note: the old law that said that more than 115g of Cannabis constitutes dealing was deemed unconstitutional in 2016:

S v Bhulwana; S v Gwadiso 1996 (1) SA 388 (CC).

Unless they can prove dealing, the court will most likely dismiss your case.

Avoiding Arrest

IMPORTANT DAGGA ARREST INFORMATION FOR EVERYBODY

IT IS IMPORTANT FOR YOUR OWN SAFETY THAT YOU READ AND UNDERSTAND ALL OF THIS:

Many people from all walks of life are STILL arrested on Cannabis charges every day in South Africa. Do not think that you are immune or invincible it may be you next.

Know your rights before it happens to you.

DO NOT GET CAUGHT. Not being arrested should be a very high priority in your life.

Rule No.1: Be alert when buying Dagga.

- It is important to add here that you should also be super vigilant about WHAT you are buying.

Rule No.2: Always be discreet.

- Be careful what you post on social media and unsecure Cannabis forums.

Rule No.3: Hide it like your life depends on it.

- Currently, the police & the justice system are trying to make dealers out of all possession cases.
- DO NOT TRUST THE AUTHORITIES WITH ANYTHING.

Rule No.4: DO NOT SMOKE IN PUBLIC.

- The Concourt Judgement was based on our Constitutional Right to Privacy.
- Public spaces are NOT private spaces.
- Know the difference.

Rule No.5: Obey the rules of the road.

- The police at a roadblock need to have a written authorisation (warrant) signed by the provincial commissioner (or his designated authority).
- The authority must state when and where the K78 roadblock is to be and what the purpose is.
- You are entitled to see the authority for the roadblock at that time. Without this, the police
- CANNOT enter your vehicle.
- It is legal to have any quantity of Cannabis in your vehicle as long as it is reasonably concealed from public view. Smells do not count. It is YOUR car and private space.

Rule No.6: Be polite to the police.

- Keep all interactions with the police to a minimum.
- Do not talk to them more than you absolutely must.
- It does not matter what you think of the police, when they stop you, they immediately have the upper hand.
- The best way to keep calm is to be polite.
- The arrogance of some officers can make you mad but just bite your tongue, smile and remember that YOU KNOW YOUR RIGHTS!

Rule No.7: Trading is VERY dangerous.

- If you are selling or buying, DO NOT boast about it.
- You must be more discreet than any other member of the Cannabis community.
- If you are caught, you are in for a long, stressful and expensive battle.
- Dealing “includes performing any act in connection with the transhipment, importation, cultivation, collection, manufacture, supply, prescription, administration, sale, transmission or exportation of the drug”.

**If you're arrested
SOS Helpline
063-174-0938**

You have obeyed Rules 1 – 7 but you have been arrested anyway.

This can be a scary and stressful situation. The only way to reduce your fear is to know your rights and know how to act.

Step 1:

- You will be informed that you have been arrested.
- Do not talk. If you must talk, tell the truth and be polite.
- Be aware that since the constitutional court judgement of 18 September 2018, the police are not allowed to lock you in a cell until your court appearance.
- They have to give you a court date and let you go.
- Be sure to tell the police at this stage that you know your rights and add, politely, that you are not a criminal and intend to co-operate.
- If the police take any of your belongings, make sure they sign a detailed list of any items that they confiscate from you.
- At some stage, your fingerprints will be taken.
- If you have warrants out for your arrest or cases pending, this is when the police will find out.

Step 2:

- Apart from your name and address, you do not have to tell them anything.
- Anything you say may aggravate the case against you.
- Do not be fooled by subtle promises of lesser punishment or getting the court to be lenient.
- The police will want to confirm your address before they let you go.
- They will do this by sending a van to the address and speaking to the people there or the neighbours.
- The police will accept a parent of the accused to come and depose an affidavit that the arrested person is their offspring.
- A utility bill can also help if the arrested person has given the same address.
- At the start of the interview, say: "My name is and I live at..... I have been informed of my right to remain silent and respectfully wish to remain silent at this time." Having an attorney's name and number available is a real bonus – The police will take you seriously if you call your attorney and you have his card. You are constitutionally entitled to speak to them.
- If you have an attorney, say: " My attorney's name is and his telephone number is I would like to contact him now."

STEP 3:

- Know your arrest paperwork.
- Part of the arrest paperwork is an ADMISSION OF GUILT section.
- If you have been arrested the police will offer you the option of admitting guilt, paying a R300 - R500 fine and going home.
- IF YOU PAY THIS FINE, YOU WILL HAVE A CRIMINAL RECORD.
- The police will NOT tell you the consequences of paying an admission of guilt fine.
- The police also do not tell you that you have 3 weeks to pay this fine and demand payment to let you go.
- The only time that you pay the police, any money is after signing paper no. 2 (bail).
- Criminal records can only be expunged after 10 years.
- This is not automatic; it is a lengthy and expensive process.
- YOU ARE NOT A CRIMINAL, DO NOT PAY THE FINE. Instead, ask the police to give you the next paper:

PAPER 3A: ANNEXURE TO WRITTEN NOTICE TO APPEAR IN COURT IN TERMS OF SECTION 56 OF ACT 51 OF 1977

- This paper explains that, if you pay the fine, you will receive a criminal record.
- Police will most likely not offer you this paper and it is good for our cause that you ask for it.
- If you have been arrested and have signed an admission of guilt fine, it is possible to have the admission withdrawn.
- All the admissions of guilt are sent from the police stations to the magistrate's court where a magistrate will "confirm" them.
- It is a race against time for your attorney to write a letter explaining the withdrawal of the admission of guilt and for him to intercept the docket and admission before it gets to the magistrate.
- The admissions are usually confirmed the following day (and on a Monday following the weekend).
- Do not resist. Make it clear to the officer that you are co-operating.
- BE POLITE. Running is a bad idea. Fighting back is a bad idea.
- Your arrest should follow certain steps.

Bribes

- The SAPS will still intimidate you for ANY amount, so KNOW YOUR RIGHTS.
- Avoiding arrest should be a very high priority in your life.
- That said, it is important to know that once you face the police, they will most likely lie and fish for bribes or play games.
- It is therefore vital that YOU know the rules.

Warrants

- Without a warrant, the police are not allowed to enter your private space.
- Should they do so, THEY are breaking the law.
- A warrant must have your name, address, and today's date and must be signed by your local area magistrate (make sure that your property is impenetrable to the police if you think they might come bashing your door down).
- Warrantless searches will still happen.
- Although you would be, well within your rights to request that a valid warrant be provided to you before you, your home or your car are searched; this does not necessarily mean that the police will provide this warrant before proceeding with a search.
- The laws regarding searches at K78 roadblocks may also overwrite any rights that you have to request a warrant before having your vehicle searched.
- Magistrates do not seem to be issuing warrants for suspicion of Cannabis-related activity currently.

Lawyers / Paperwork

- Never trust random shark lawyers that hang around the court or police station.
- Ask a friend to refer Cannabis friendly representation.
- NEVER PAY A FINE OR SIGN AN ADMISSION OF GUILT at the police station.
- There is no crime in merely possessing any amount of Cannabis in a private space.
- If you are sure of your case, it is better to get the arrest paperwork filled and receive your case nr and court date than to play cat and mouse with corrupt police.
- You should appear before a magistrate within 48 hours.
- If the court wants to put you on trial, it is your constitutional right to ask for postponement of the matter at your first appearance.
- This will allow you time to get a lawyer or contact us for assistance.