



Legal Services Newsletter | Regsdienste Nuusbrief

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PRIVATE USE OF CANNABIS – IMPLICATIONS FOR SCHOOLS (SAOU LEGAL OPINION)

On 18 September 2018, the Constitutional Court handed down judgement in the case of the Minister of Justice and Constitutional Development (Case CCT 108/17) on the private use of cannabis (dagga) in South Africa. The judgement has serious implications for schools. In order to ensure that members are fully aware of such implications, the SAOU draws attention to the following:

- What does the judgement actually mean?**
Adult individuals (older than 18 years) are now permitted to use, possess and cultivate cannabis in private and for personal consumption only.

- What is meant by “in private”?**
Provided that an adult person uses, possesses or cultivates cannabis in a private space (that is, not in a public space), such conduct will not be subject to criminal sanction.

PRIVAAAT GEBRUIK VAN KANNABIS – IMPLIKASIE VIR SKOLE (SAOU REGSOPINIE)

Op 18 September 2018, het die Grondwetlike Hof uitspraak gelewer in die saak van die Minister van Justisie en Grondwetlike Ontwikkeling (Saak CCT108/17) rakende die privaat gebruik van kannabis (dagga) in Suid Afrika. Die uitspraak het ernstige implikasies vir skole. Lede se aandag word op die volgende gerig:

- Wat beteken die uitspraak?**
Volwassenes (ouer as 18 jaar) word nou toegelaat om kannabis te gebruik, in besit te hê en dit te kultiveer (groei) vir slegs persoonlike gebruik.

- Wat word bedoel met “privaat”?**
Om strafregtelike vervolging vry te spring, mag ‘n volwassene die kannabis slegs gebruik, in besit hê of kultiveer in sy/haar privaattruimte (dit sluit enige openbare ruimtes uit)

<p>3. What is regarded as a public space?</p> <p>(a) The workplace is seen as a “public space” and it would, therefore, be illegal to have cannabis at the workplace premises.</p> <p>(b) A school is a workplace and a public space. An educator or any other staff member will, therefore, be in violation of the law if he/she carries cannabis or stores cannabis on the school premises.</p>	<p>3. Wat word as ‘n openbare ruimte beskou?</p> <p>(a) Die werkplek word beskou as ‘n openbare ruimte en daarom sal dit onwettig wees om kannabis op die werkperseel te hê.</p> <p>(b) ‘n Skool is ‘n werkplek en ‘n openbare ruimte. ‘n Opvoeder of enige werknemer sal die wet oortree indien hulle kannabis op die werkperseel sou neem, stoor of gebruik.</p>
<p>4. What are the implications of the judgement for the child/learner?</p> <p>Children under the age of 18 years are still subject to all the prohibitions of two acts:</p> <p>(a) Section 4(b) of the Drugs and Drug Trafficking Act, 1992, and,</p> <p>(b) Section 22A (9) (a) (i) of the Medicines and Related Substances Control Act, 1965.</p>	<p>4. Wat is die implikasies vir kinders/leerders?</p> <p>Kinders onder die ouderdom van 18 jaar is nog steeds onderhewig aan die beperkings van die twee statute:</p> <p>(a) <i>“Section 4(b) of the Drugs and Drug Trafficking Act, 1992”</i>, en</p> <p>(b) <i>“Section 22A (9) (a) (i) of the Medicines and Related Substances Control Act, 1965.”</i></p>
<p>TAKE NOTE: The Court did not make any exception in respect of children. Learners who are on the school premises and are in possession of cannabis or under the influence of the drug, will be subject to sanction.</p>	<p>NEEM KENNIS: Die hof het nie enige eksepsies gemaak ten opsigte van kinders nie. Leerders op skoolgronde wat in besit of onder die invloed van kannabis is, kan vervolg word.</p>
<p>LEGAL OPINION Click here to read the legal opinion.</p>	<p>REGSOPINIE Kliek hier om die regsopinie te lees.</p>